

AMENDED IN ASSEMBLY SEPTEMBER 10, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1150

Introduced by Assembly Member Gaines

February 27, 2009

An act to amend Sections 68055.1, and 68055.2 of, and to repeal Sections 66799.22 and 66799.40 of, the Government Code, to amend Sections 18909, 25141.6, 25143.12, 25150, 25197.2, 25201.1, 25213, 25214.8.13, 25214.10.1, 25218.9, 25218.10, 25244.6, 25244.15.1, 25250.1, 25250.15, 25250.18, 25250.19, 33459.1, 39762, 39763, 41705, 41805.5, and 41865.5 of the Health and Safety Code, to amend Sections 10507.5, 12153, 12164.5, 12165, 12166, 12167, 12167.1, 12200, 12207, 12211, 12215, 12217, 12301, 12310, and 12320 of the Public Contract Code, to amend Sections 40051, 40054, 40059.1, 40062, 40063, 40106, 40117, 40127, 40130, 40131, 40145, 40148, 40150.2, 40183, 40184, 40194, 40910, 40911, 40912, 40913, 40950, 40972, 40973, 40974, 40975, 41030, 41031, 41032, 41033, 41220, 41300, 41330, 41331, 41332, 41333, 41420, 41510, 41720, 41721.5, 41733, 41734, 41750, 41770, 41780.05, 41780.1, 41781.1, 41781.2, 41781.3, 41782, 41783, 41783.1, 41784, 41786, 41787, 41787.1, 41787.2, 41787.3, 41787.4, 41790, 41791, 41791.1, 41791.2, 41791.5, 41794, 41800, 41801, 41801.5, 41802, 41810, 41810.1, 41811, 41811.5, 41812, 41813, 41820.5, 41820.6, 41821, 41821.1, 41821.2, 41821.3, 41821.5, 41821.6, 41822, 41825, 41850, 41850.5, 41851, 41903, 41956, 42000, 42002, 42005, 42007, 42012, 42013, 42014, 42015, 42019, 42020, 42023.1, 42023.3, 42023.4, 42023.5, 42023.6, 42024, 42106, 42171, 42172, 42240, 42241.5, 42244, 42244.5, 42245, 42252, 42291, 42291.5, 42292, 42293, 42294, 42295, 42296, 42297, 42301, 42310, 42310.1, 42310.2,

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and 48502 of, and to repeal Chapter 3 (commencing with Section 40400) of Part 1 of Division 30 of, the Public Resources Code, to amend Section 7718 of the Public Utilities Code, to amend Sections 45855, 45863, 45981, and 45982 of the Revenue and Taxation Code, and to amend Section 31560 of the Vehicle Code, relating to Integrated Waste Management. *An act to amend Sections 68055.1 and 68055.2 of the Government Code, to amend Sections 18909, 25141.6, 25143.12, 25150, 25197.2, 25201.1, 25213, 25214.8.13, 25214.10.1, 25218.9, 25218.10, 25244.6, 25244.15.1, 25250.1, 25250.15, 25250.18, 25250.19, 25312, 25313, 33459.1, 39762, 39763, 41705, 41805.5, and 41865.5 of, and to add Section 30 to, the Health and Safety Code, to amend Sections 10507.5, 12153, 12164.5, 12165, 12166, 12167, 12167.1, 12200, 12207, 12211, 12215, 12217, 12301, 12310, and 12320 of the Public Contract Code, to amend Sections 40051, 40054, 40059.1, 40062, 40063, 40106, 40117, 40127, 40130, 40131, 40145, 40148, 40150.2, 40183, 40184, 40194, 40910, 40911, 40912, 40913, 40950, 40972, 40973, 40974, 40975, 41030, 41031, 41032, 41033, 41220, 41300, 41330, 41331, 41332, 41333, 41420, 41510, 41720, 41721.5, 41733, 41734, 41750, 41770, 41780.05, 41780.1, 41781.1, 41781.2, 41781.3, 41782, 41783, 41783.1, 41784, 41786, 41787, 41787.1, 41787.2, 41787.3, 41787.4, 41790, 41791, 41791.1, 41791.2, 41791.5, 41794, 41800, 41801, 41801.5, 41802, 41810, 41810.1, 41811, 41811.5, 41812, 41813, 41820.5, 41820.6, 41821, 41821.1, 41821.2, 41821.3, 41821.5, 41821.6, 41822, 41825, 41850, 41850.5, 41851, 41903, 41956, 42000, 42002, 42005, 42007, 42012, 42013, 42014, 42015, 42019, 42020, 42023.1, 42023.3, 42023.4, 42023.5, 42023.6, 42024, 42106, 42171, 42172, 42240, 42241.5, 42244, 42244.5, 42245, 42252, 42291, 42291.5, 42292, 42293, 42294, 42295, 42296, 42297, 42301, 42310, 42310.1, 42310.2, 42310.3, 42320, 42321, 42322, 42323, 42325, 42326, 42327, 42330, 42356.1, 42359.7, 42410, 42411, 42414, 42415, 42441, 42443, 42450, 42461, 42463, 42464, 42465, 42474, 42475, 42475.2, 42475.4, 42476, 42477, 42478, 42479, 42485, 42500, 42501, 42510, 42511, 42520, 42540, 42551, 42555, 42556, 42557, 42558, 42561, 42562, 42600, 42601, 42602, 42605, 42621, 42635, 42640, 42641, 42642, 42645, 42646, 42647, 42648.1, 42648.2, 42648.5, 42650, 42651, 42700, 42703, 42760, 42770, 42773, 42774, 42775, 42780, 42781, 42782, 42783, 42791, 42811, 42812, 42820, 42821, 42822, 42823, 42823.5, 42825, 42830, 42831, 42832, 42833, 42835, 42841, 42843, 42844, 42845, 42846, 42846.5, 42847, 42847.5, 42848, 42849, 42850, 42851, 42855, 42867, 42871, 42872.5, 42855, 42873, 42874, 42875, 42880, 42881,*

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LEGISLATIVE COUNSEL'S DIGEST

AB 1150, as amended, Gaines. ~~Integrated waste management. Solid waste: resource recycling and recovery.~~

Existing law creates the California Integrated Waste Management Board with specified powers and duties.

Chapter 21 of the Statutes of 2009, which will go into effect on January 1, 2010, will abolish the California Integrated Waste Management Board and transfer its duties and responsibilities to the Department of Resources Recycling and Recovery, which Chapter 21 of the Statutes of 2009 will create in the Natural Resources Agency.

This bill would change certain references to the California Integrated Waste Management Board to the Department of Resources Recycling and Recovery in conformance with the changes made by Chapter 21 of the Statutes of 2009.

Existing law requires the Department of Toxic Substances Control to establish programs for and regulate hazardous waste source reduction.

This bill would additionally require the department to assume authority, duties, powers, purposes, responsibilities, and jurisdiction of the board, as described, and would change the department's name to the Department of Toxics and Waste Management.

~~The California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, is required to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient cost-effective manner to conserve water, energy, and other natural resources.~~

~~This bill would abolish the board and transfer all of its authority, duties, powers, purposes, responsibilities, and jurisdiction to the Department of Conservation and the Department of Toxic Substances Control, as described.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 68055.1 of the Government Code is
- 2 amended to read:
- 3 68055.1. Unless the context otherwise requires, the definitions
- 4 as set forth in this section govern the construction of this chapter.
- 5 (a) "Public place" means any area that is used or held out for
- 6 the use of the public whether owned and operated by public or
- 7 private interests, but not including indoor areas. "Indoor area"
- 8 means any enclosed area covered with a roof and protected from
- 9 moisture and wind.

(b) “Drive-in restaurant” means a restaurant that sells food products for immediate consumption on or near a location at which parking facilities are provided for the use of patrons in consuming the products purchased at the restaurant.

(c) “Fast food outlet” means a restaurant that sells food products primarily on a “takeout” or “to go” basis.

(d) “Grocery stores” includes, but is not limited to, convenience markets that sell groceries.

(e) “Shopping centers” means a group of two or more stores that maintain a common parking lot for patrons of those stores.

~~(f) “Board” means the State Solid Waste Management Board.~~

~~(g)–~~

(f) “Litter” means all improperly discarded waste material, including, but not limited to, convenience food, beverage, and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials, thrown or deposited on the lands and waters of the state, but not including the properly discarded waste of the primary processing of agriculture, mining, logging, sawmilling, or manufacturing.

~~(h)–~~

(g) “Solid waste” means all putrescible and nonputrescible solid, semisolid, and liquid wastes.

SEC. 2. *Section 68055.2 of the Government Code is amended to read:*

68055.2. Litter receptacles shall be placed in all public places in the state, including, but not limited to, the following:

(a) Drive-in restaurants and fast food outlets.

(b) Gasoline service stations.

(c) Shopping centers.

(d) Grocery stores.

(e) Boat launching and takeout areas.

(f) Boat moorage and fueling stations.

(g) Public piers.

(h) Parks and campgrounds.

(i) Beaches.

(j) Outdoor parking lots which have a capacity of 50 or more automobiles and which are contiguous to the public places listed in this section.

1 The ~~board~~ *Department of Resources Recycling and Recovery*
2 may further define “public place” by specifying in its regulations
3 particular types of places that are subject to the requirements of
4 this section.

5 Litter receptacles need be placed in such public places only
6 during times such places, or events held at them, are open to the
7 public.

8 *SEC. 3. Section 30 is added to the Health and Safety Code, to*
9 *read:*

10 *30. For purposes of any reference in any law or regulation,*
11 *the Department of Toxic Substances Control shall be known and*
12 *hereafter referred to as the Department of Toxics and Waste*
13 *Management.*

14 *SEC. 4. Section 18909 of the Health and Safety Code is*
15 *amended to read:*

16 18909. (a) “Building standard” means any rule, regulation,
17 order, or other requirement, including any amendment or repeal
18 of that requirement, that specifically regulates, requires, or forbids
19 the method of use, properties, performance, or types of materials
20 used in the construction, alteration, improvement, repair, or
21 rehabilitation of a building, structure, factory-built housing, or
22 other improvement to real property, including fixtures therein, and
23 as determined by the commission.

24 (b) Except as provided in subdivision (d), “building standard”
25 includes architectural and design functions of a building or
26 structure, including, but not limited to, number and location of
27 doors, windows, and other openings, stress or loading
28 characteristics of materials, and methods of fabrication, clearances,
29 and other functions.

30 (c) “Building standard” includes a regulation or rule relating to
31 the implementation or enforcement of a building standard not
32 otherwise governed by statute, but does not include the adoption
33 of procedural ordinances by a city or other public agency relating
34 to civil, administrative, or criminal procedures and remedies
35 available for enforcing code violations.

36 (d) “Building standard” does not include any safety regulations
37 that any state agency is authorized to adopt relating to the operation
38 of machinery and equipment used in manufacturing, processing,
39 or fabricating, including, but not limited to, warehousing and food
40 processing operations, but not including safety regulations relating

1 to permanent appendages, accessories, apparatus, appliances, and
2 equipment attached to the building as a part thereof, as determined
3 by the commission.

4 (e) “Building standard” does not include temporary scaffoldings
5 and similar temporary safety devices and procedures that are used
6 in the erection, demolition, moving, or alteration of buildings.

7 (f) “Building standard” does not include any regulation relating
8 to the internal management of a state agency.

9 (g) “Building standard” does not include any regulation, rule,
10 order, or standard that pertains to mobilehomes, manufactured
11 homes, commercial coaches, special purpose commercial coaches,
12 or recreational vehicles.

13 (h) “Building standard” does not include any regulation, rule,
14 or order or standard that pertains to a mobilehome park, as defined
15 by Section 18214, or special occupancy park, as defined by Section
16 18862.43, except that “building standard” includes the construction
17 of permanent buildings and plumbing, electrical, and fuel gas
18 equipment and installations within permanent buildings in a
19 mobilehome park or special occupancy park. For purposes of this
20 subdivision, “permanent building” means any permanent structure
21 constructed in the mobilehome park or special occupancy park
22 that is a permanent facility under the control and ownership of the
23 park operator.

24 (i) “Building standard” does not include any regulation, rule,
25 order, or standard that pertains to mausoleums regulated under
26 Part 5 (commencing with Section 9501) of Division 8.

27 (j) “Building standard” does not include any regulation adopted
28 by the ~~California Integrated Waste Management Board, Department~~
29 ~~of Resources Recycling and Recovery, the Department of Toxic~~
30 ~~Substances Control Department of Toxics and Waste Management,~~
31 the Occupational Safety and Health Standards Board, or the State
32 Water Resources Control Board concerning the discharge of waste
33 to land or the treatment, transfer, storage, resource recovery,
34 disposal, or recycling of the waste.

35 *SEC. 5. Section 25141.6 of the Health and Safety Code is*
36 *amended to read:*

37 25141.6. In any case where the department proposes to make
38 a determination that a waste meets one or more of the criteria and
39 guidelines for the identification of hazardous wastes adopted
40 pursuant to Section 25141, but that it is not necessary to manage

1 the waste as a hazardous waste because the waste possesses
2 mitigating physical and chemical characteristics that render it
3 insignificant as a hazard to human health, safety, or the
4 environment, the department shall issue a public notice of that
5 proposed determination. The public notice shall be electronically
6 posted on the department's Internet home page at least 30 days
7 before the determination becomes final and shall also be sent to
8 all of the following:

9 (a) The Chairperson of the California Environmental Policy
10 Council.

11 (b) ~~The California Integrated Waste Management Board~~
12 *Department of Resources Recycling and Recovery.*

13 (c) The State Water Resources Control Board.

14 (d) Any person who requests the public notice.

15 (e) Any solid waste enforcement agency or California regional
16 water quality control board, the jurisdiction of which the
17 department knows will be affected by the determination.

18 *SEC. 6. Section 25143.12 of the Health and Safety Code is*
19 *amended to read:*

20 25143.12. Notwithstanding any other provision of law, debris
21 that is contaminated only with crude oil or any of its fractions is
22 exempt from regulation under this chapter if all of the following
23 conditions are met:

24 (a) The debris consists exclusively of wood, paper, textile
25 materials, concrete rubble, metallic objects, or other solid
26 manufactured objects.

27 (b) The debris is not subject to regulation as a hazardous waste
28 or used oil under federal law.

29 (c) The debris does not contain any free liquids, as determined
30 by the paint filter test specified in the regulations adopted by the
31 department.

32 (d) The debris, if not contaminated with crude oil or any of its
33 fractions, would not be regulated as a hazardous waste under this
34 chapter or the regulations adopted pursuant to this chapter.

35 (e) The debris is not a container or tank that is subject to
36 regulation as hazardous waste under this chapter or the regulations
37 adopted pursuant to this chapter.

38 (f) The debris is disposed of in a composite lined portion of a
39 waste management unit that is classified as either a Class I or Class
40 II waste management unit in accordance with Article 3

1 (commencing with Section 2530) of Chapter 15 of Division 3 of
2 Title 23 of the California Code of Regulations, the disposal is made
3 in accordance with the applicable requirements of the California
4 regional water quality control board and the ~~California Integrated~~
5 ~~Waste Management Board~~ *Department of Toxics and Waste*
6 *Management*, and, if the waste management unit is a Class II
7 landfill, it is sited, designed, constructed, and operated in
8 accordance with the minimum standards applicable on or after
9 October 9, 1993, to new or expanded municipal solid waste
10 landfills, that are contained in Part 258 (commencing with Section
11 258.1) of Subchapter I of Chapter 1 of Title 40 of the Code of
12 Federal Regulations, as those regulations read on January 1, 1996.

13 *SEC. 7. Section 25150 of the Health and Safety Code is*
14 *amended to read:*

15 25150. (a) The department shall adopt, and revise when
16 appropriate, standards and regulations for the management of
17 hazardous wastes to protect against hazards to the public health,
18 to domestic livestock, to wildlife, or to the environment.

19 (b) The department and the local officers and agencies
20 authorized to enforce this chapter pursuant to subdivision (a) of
21 Section 25180 shall apply the standards and regulations adopted
22 pursuant to subdivision (a) to the management of hazardous waste.

23 (c) Except as provided in subdivision (d), the department may
24 limit the application of the standards and regulations adopted or
25 revised pursuant to subdivision (a) at facilities operating pursuant
26 to a hazardous waste facilities permit or other grant of authorization
27 issued by the department in any manner that the department
28 determines to be appropriate, including, but not limited to, requiring
29 these facilities to apply for, and receive, a permit modification
30 prior to the application of the standards and regulations.

31 (d) The department shall not adopt or revise standards and
32 regulations which result in the imposition of any requirement for
33 the management of a RCRA waste that is less stringent than a
34 corresponding requirement adopted by the Environmental
35 Protection Agency pursuant to the federal act.

36 (e) The department shall adopt, and revise when appropriate,
37 regulations for the recycling of hazardous waste to protect against
38 hazards to the public health, domestic livestock, wildlife, or to the
39 environment, and to encourage the best use of natural resources.

(f) Before the adoption of regulations, the department shall notify all agencies of interested local governments, including, but not limited to, certified unified program agencies, local governing bodies, local planning agencies, local health authorities, local building inspection departments, the Department of Pesticide Regulation, the Department of the California Highway Patrol, the Department of Fish and Game, the Department of Industrial Relations, the Division of Industrial Safety, the State Air Resources Board, the State Water Resources Control Board, the State Fire Marshal, regional water quality control boards, the State Building Standards Commission, *the Department of Resources Recycling and Recovery*, and the Office of Environmental Health Hazard Assessment; ~~and the California Integrated Waste Management Board.~~

SEC. 8. Section 25197.2 of the Health and Safety Code is amended to read:

25197.2. (a) The department shall establish a statewide Hazardous Waste Strike Force which shall consist of a representative from each of the following agencies:

- (1) The Department of Transportation.
- (2) The Department of Industrial Relations.
- (3) The Department of Food and Agriculture.
- (4) The State Water Resources Control Board.
- (5) The State Air Resources Board.
- (6) The Department of the California Highway Patrol.
- (7) The Office of the State Fire Marshal in the Department of Forestry and Fire Protection.
- ~~(8) The California Integrated Waste Management Board.~~
- ~~(9)~~
- (8) The Department of Fish and Game.
- ~~(10)~~
- ~~(9) The Office of Emergency Services California Emergency Management Agency (Cal EMA).~~
- ~~(11)~~
- ~~(10) The Department of Toxic Substances Control Department of Toxics and Waste Management.~~
- ~~(12)~~
- (11) The Attorney General.
- ~~(13)~~
- (12) The Department of Pesticide Regulation.

1 (b) The director, or the director's designee, shall direct and
2 coordinate the activities of the Hazardous Waste Strike Force.

3 (c) The Hazardous Waste Strike Force shall do all of the
4 following:

5 (1) Recommend standardized programs among the agencies
6 represented on the Hazardous Waste Strike Force for the purposes
7 of uniformly enforcing state hazardous waste statutes and
8 regulations and reporting violators of these statutes and regulations.

9 (2) Recommend programs to publicize and improve the
10 statewide telephone number established pursuant to paragraph (5)
11 of subdivision (b) of Section 25197.1.

12 (3) Recommend local and regional programs to report
13 information concerning violations of this chapter and any other
14 hazardous waste statutes and regulations.

15 *SEC. 9. Section 25201.1 of the Health and Safety Code is*
16 *amended to read:*

17 25201.1. (a) A solid waste facility, as defined in Section 40194
18 of the Public Resources Code, or any recycling facility, that accepts
19 and processes empty aerosol cans and de minimis quantities of
20 nonempty aerosol cans collected as an incidental part of the
21 collection of empty cans for recycling, is exempt from the
22 requirement to obtain a hazardous waste facilities permit or other
23 authorization from the department for purposes of conducting that
24 activity if both of the following conditions are met:

25 (1) The nonempty aerosol cans are from products that are
26 normally intended for household use and were generated by
27 households.

28 (2) The city, county, or regional agency in the area that the
29 facility serves provides educational information to the public on
30 the safe collection and recycling or disposal of empty and
31 nonempty aerosol cans that encourages, to the maximum extent
32 feasible, the separation and recycling of empty aerosol cans through
33 such programs as curbside, dropoff, and buy-back recycling
34 programs, and the diversion of nonempty aerosol cans into
35 household hazardous waste collection programs. Issues of
36 compliance with this subdivision shall be determined by the
37 ~~California Integrated Waste Management Board~~ *department* or by
38 the appropriate local enforcement agency.

39 (b) This section is not intended to alter the obligation to manage
40 as a hazardous waste any nonempty aerosol cans that meet the

requirements of Section 25117, and that are not subject to the exemption provided in this section.

(c) Nothing in this section exempts a solid waste facility that engages in an activity that requires a hazardous waste facility permit, other than the acceptance and processing of empty aerosol cans and de minimis quantities of nonempty aerosol cans as an incidental part of the collection of empty cans for recycling, from the requirement of obtaining a hazardous waste facilities permit.

SEC. 10. Section 25213 of the Health and Safety Code is amended to read:

25213. (a) To implement subdivision (c) of Section 25212, the department shall, based on reasonably available information, develop a statewide list of appliance recyclers, used appliance dealers, solid waste facilities, metal scrapyards, and others who may remove, or do business with those who remove, from major appliances, materials that require special handling. The department shall notify persons on the list of the requirements of this chapter and the steps that will be required to be taken to comply with this chapter.

(b) The department shall transmit a copy of the Appliance Recycling Guide, published by the ~~California Integrated Waste Management Board~~ department, and any other materials determined to be necessary by the department to ensure compliance with this chapter, to the following persons and agencies:

(1) Persons who apply for a generator identification number indicating that they are involved with any activities regulated pursuant to this article.

(2) The local officers and agencies authorized to enforce this chapter pursuant to subdivision (a) of Section 25180.

(c) The department shall transmit the generator identification number of any person identified pursuant to paragraph (1) of subdivision (b) and the statewide list developed pursuant to subdivision (a) to the appropriate local officers and agencies authorized to enforce this chapter pursuant to subdivision (a) of Section 25180.

SEC. 11. Section 25214.8.13 of the Health and Safety Code is amended to read:

25214.8.13. Each manufacturer shall individually, or collectively with other manufacturers, do all of the following:

1 (a) Collect, handle, and arrange for the appropriate management
2 of out-of-service mercury-added thermostats in compliance with
3 this chapter and the regulations adopted pursuant to this chapter.

4 (b) On and after July 1, 2009, provide collection bins for
5 out-of-service mercury-added thermostat collection to wholesalers
6 at a cost not to exceed twenty-five dollars (\$25).

7 (c) On and after July 1, 2009, make collection bins available at
8 no cost for out-of-service mercury-added thermostats to any local
9 governmental agency that requests a collection bin for use at
10 household hazardous waste collection facilities or household
11 hazardous waste events.

12 (d) Either arrange for pick up of the collection bins, or pay for
13 the costs of shipping the collection bins provided pursuant to
14 subdivisions (b) and (c) for proper handling and recycling.

15 (e) From July 1, 2009, to December 31, 2011, inclusive,
16 undertake education and outreach efforts, including, but not limited
17 to, all of the following:

18 (1) A public service announcement promoting the proper
19 management of out-of-service mercury-added thermostats. Copies
20 of the public service announcement shall be provided to the
21 department and the California Integrated Waste Management Board
22 for their use and promotion.

23 (2) The establishment of a public Internet Web site. Templates
24 of educational materials shall be posted on the Internet Web site
25 that are in a form and format that can be easily downloaded. A
26 link to the Internet Web site shall be provided to the department
27 and the California Integrated Waste Management Board.

28 (3) Methods used to engage other stakeholders such as waste,
29 demolition, heating, ventilation, and air-conditioning organizations,
30 as well as appropriate state agencies and local governments to
31 secure support and participation to encourage the proper
32 management of out-of-service mercury-added thermostats
33 throughout California.

34 (4) Strategies to work with California utilities participating in
35 demand response programs involving the replacement of
36 thermostats to encourage their participation in the collection and
37 proper management of out-of-service mercury-added thermostats.
38 These strategies may include the inclusion of an educational insert
39 in their customers' utility bills.

1 (5) Contacting wholesalers in California and encouraging their
2 support and participation in educating their customers on the proper
3 management of out-of-service mercury-added thermostats.

4 (6) Strategies used to encourage support and participation by
5 retailers and other outlets to educate consumers on the proper
6 management of out-of-service mercury-added thermostats.

7 (f) On or before July 1, 2009, develop, and update as necessary,
8 educational and other outreach materials aimed at heating,
9 ventilation, and air-conditioning contractors, demolition
10 contractors, and their associations, municipal utility districts, and
11 homeowners. Those materials shall be made available to
12 participating retailers, all wholesalers, and household hazardous
13 waste programs. These materials shall include, but are not limited
14 to, one or more of the following:

15 (1) Signage that is prominently displayed and easily visible to
16 the consumer and contractors.

17 (2) Written materials and templates of materials for reproduction
18 by retailers and wholesalers to be provided to the consumer at the
19 time of purchase, delivery, or both purchase and delivery of a
20 thermostat. The materials shall include information on the
21 prohibition of improper disposal of mercury-added thermostats,
22 the proper management of out-of-service mercury-added
23 thermostats, and the locations of collection opportunities.

24 (3) Advertising or other promotional materials, or both, that
25 include references to the collection opportunities.

26 (4) Materials to be used in direct communications with the
27 consumer and contractor at the time of purchase.

28 (g) Provide incentives and education to contractors, service
29 technicians, and homeowners to encourage the return of
30 out-of-service mercury-added thermostats to established collection
31 locations.

32 (h) Encourage the purchase of programmable thermostats that
33 comply with Part 6 (commencing with Section 100) of Title 24 of
34 the California Building Standards Code and that qualify for the
35 Energy Star program of the federal Environmental Protection
36 Agency, as replacements for mercury-added thermostats.

37 (i) On or before April 1, 2010, and on or before April 1 annually
38 thereafter, submit an annual report to the department covering the
39 one-year period ending December 31st of the previous calendar
40 year. Each report shall be posted on the manufacturer's or

1 program's Internet Web site. The annual report shall include all
2 of the following:

3 (1) The number of out-of-service mercury-added thermostats
4 collected in California during the previous calendar year.

5 (2) The estimated total amount of mercury contained in the
6 collected out-of-service mercury-added thermostats.

7 (3) An evaluation of the effectiveness of the program.

8 (4) Commencing with the report due April 1, 2013, a comparison
9 to the performance requirements for collection established pursuant
10 to subdivision (b) of Section 25214.8.17.

11 (5) An accounting of the program administrative costs, including
12 a copy of Internal Revenue Service Form 990 for a nonprofit
13 organization's program. For a for-profit organization's program,
14 the manufacturer, or group of manufacturers operating a program,
15 shall submit independently audited financial statements detailing
16 revenues and a full accounting of administrative costs incurred.

17 (6) A description of the outreach strategies employed to increase
18 participation and collection rates.

19 (7) Examples of outreach and educational materials used.

20 (8) Names and locations of all participating collection locations.

21 (9) The number of out-of-service mercury-added thermostats
22 collected at each collection location.

23 (10) The Internet Web site address where the annual report may
24 be viewed online.

25 (11) A description of how the collected out-of-service
26 mercury-added thermostats were managed.

27 (12) Modifications that the manufacturer is proposing to make
28 in its collection and recycling program.

29 *SEC. 12. Section 25214.10.1 of the Health and Safety Code is*
30 *amended to read:*

31 25214.10.1. (a) For purposes of this section, the following
32 definitions shall apply:

33 (1) "Electronic device" means a video display device, as defined
34 in subdivision-(t) (u) of Section 42463 of the Public Resources
35 Code, with a screen size of greater than four inches.

36 (2) "Covered electronic device," "manufacturer," and "retailer"
37 have the same meaning as those terms are defined in Section 42463
38 of the Public Resources Code.

1 (b) The department shall adopt regulations that identify
2 electronic devices that the department determines are presumed
3 to be, when discarded, a hazardous waste pursuant to this chapter.

4 (c) (1) Except as provided in subdivision (e), a manufacturer
5 of an electronic device that is identified in the regulations adopted
6 by the department shall send a notice in accordance with the
7 schedule specified in subparagraph (A) or (B), as applicable, of
8 paragraph (3), to any retailer that sells that electronic device
9 manufactured by the manufacturer. The notice shall identify the
10 electronic device, and shall inform the retailer that the electronic
11 device is a covered electronic device and is subject to a fee in
12 accordance with subdivision (d).

13 (2) A manufacturer subject to this subdivision shall also send
14 a copy of the notice to the State Board of Equalization.

15 (3) The notice required by this subdivision shall be sent in
16 accordance with the following schedule:

17 (A) On or before October 1, 2004, the manufacturer shall send
18 a notice covering any electronic device manufactured by that
19 manufacturer that is identified in the regulations adopted by the
20 department on or before July 1, 2004, that identify the electronic
21 devices that the department determines are presumed to be, when
22 discarded, a hazardous waste pursuant to this chapter.

23 (B) On or before April 1, 2005, and on or before every April
24 1 of each year thereafter, the manufacturer shall send a notice
25 covering any electronic device manufactured by that manufacturer
26 identified in the regulations adopted by the department pursuant
27 to subdivision (b) on or before December 31 of the prior year.

28 (4) If a retailer sells a refurbished covered electronic device,
29 the manufacturer is required to comply with the notice requirement
30 of this subdivision only if the manufacturer directly supplies the
31 refurbished covered electronic device to the retailer.

32 (d) (1) Except as provided in subdivision (e), a covered
33 electronic device that is identified in the regulations adopted, on
34 or before July 1, 2004, by the department, that identify electronic
35 devices that the department determines are presumed to be, when
36 discarded, a hazardous waste pursuant to this chapter shall, on and
37 after January 1, 2005, be subject to Chapter 8.5 (commencing with
38 Section 42460) of Part 3 of Division 30 of the Public Resources
39 Code, including the fee imposed pursuant to Section 42464 of the
40 Public Resources Code.

(2) Except as provided in subdivision (e), a covered electronic device identified in the regulations adopted by the department, pursuant to subdivision (b), shall, on and after July 1 of the year subsequent to the year in which the covered electronic device is first identified in the regulations, be subject to Chapter 8.5 (commencing with Section 42460) of Part 3 of Division 30 of the Public Resources Code, including the fee imposed pursuant to Section 42464 of the Public Resources Code.

(e) (1) If the manufacturer of an electronic device that is identified in the regulations adopted by the department pursuant to subdivision (b) obtains the concurrence of the department that an electronic device, when discarded, would not be a hazardous waste, in accordance with procedures set forth in Section 66260.200 of Title 22 of the California Code of Regulations, the electronic device shall cease to be a covered electronic device and shall cease to be subject to subdivisions (c) and (d) on the first day of the quarter that begins not less than 30 days after the date that the department provides the manufacturer with a written nonhazardous concurrence for the electronic device pursuant to this subdivision. A manufacturer shall notify each retailer, to which that manufacturer has sold a covered electronic device, that the device has been determined pursuant to this subdivision to be nonhazardous and is no longer subject to a covered electronic recycling fee.

(2) No later than 10 days after the date that the department issues a written nonhazardous concurrence to the manufacturer, the department shall do both of the following:

(A) Post on the department's Web site a copy of the nonhazardous concurrence, including, but not limited to, an identification and description of the electronic device to which the concurrence applies.

(B) Send a copy of the nonhazardous concurrence, including, but not limited to, an identification and description of the electronic device to which the concurrence applies, to the ~~California Integrated Waste Management Board and the~~ State Board of Equalization.

(f) Notwithstanding Section 42474 of the Public Resources Code, a fine or penalty shall not be assessed on a retailer who unknowingly sells, or offers for sale, in this state a covered electronic device for which the covered electronic waste recycling

1 fee has not been collected or paid, if the failure to collect the fee
2 was due to the failure of the State Board of Equalization to inform
3 the retailer that the electronic device was subject to the fee.

4 *SEC. 13. Section 25218.9 of the Health and Safety Code is*
5 *amended to read:*

6 25218.9. On or before October 1 of each year, a public agency,
7 or its contractor, operating a household hazardous waste collection
8 facility shall submit to the CUPA, or, in those jurisdictions where
9 there is no CUPA, to the officer or agency authorized pursuant to
10 subdivision (f) of Section 25404.3 to implement and enforce the
11 requirements of this chapter listed in paragraph (1) of subdivision
12 (c) of Section 25404, a copy of the completed ~~California Integrated~~
13 ~~Waste Management Board Form~~ *department Form* 303, which is
14 required to be submitted to ~~that board~~ *the department* for the prior
15 fiscal year pursuant to regulations adopted by ~~that board~~ *the*
16 *department*. The completed ~~California Integrated Waste~~
17 ~~Management Board~~ Form 303 shall also be submitted to the
18 department until (1) regulations promulgated by the Secretary for
19 Environmental Protection establishing a unified program
20 information collection and reporting system and standards are
21 effective, (2) the regulations require a statewide data base system
22 that will enable the department and the public to obtain the required
23 information from all CUPAs or the authorized officers or agencies,
24 and (3) the statewide data base system is in place and fully
25 operational.

26 *SEC. 14. Section 25218.10 of the Health and Safety Code is*
27 *amended to read:*

28 25218.10. The department ~~and the California Integrated Waste~~
29 ~~Management Board~~ shall jointly develop and maintain a data base
30 of all household hazardous waste collection events, facilities, and
31 programs within the state. The department ~~and the California~~
32 ~~Integrated Waste Management Board~~ shall both maintain that
33 information, ~~as a cooperative effort~~, and shall make information
34 from the data base available to the public upon request. However,
35 the department ~~and the California Integrated Waste Management~~
36 ~~Board~~ shall implement this section only to the extent that funds
37 are appropriated therefor by the Legislature.

38 *SEC. 15. Section 25244.6 of the Health and Safety Code is*
39 *amended to read:*

1 25244.6. The department, in consultation with the State Water
2 Resources Control Board, *and* the State Air Resources Board, ~~and~~
3 ~~the California Waste Management Board~~, shall do all of the
4 following:

5 (a) Implement a program to research, develop, and demonstrate
6 hazardous waste reduction, recycling, and treatment technologies
7 at appropriate locations throughout the state.

8 (b) On or before January 1, 1987, and, in consultation with
9 industry and interested parties, adopt criteria for selecting projects
10 which would receive grants to pay for the construction of
11 equipment which would be used to demonstrate hazardous waste
12 reduction, recycling, or treatment technologies. The criteria shall
13 include provisions which require that, in assessing each project,
14 the department consider the feasibility of the project's particular
15 technology, the research and technical spinoffs likely to be
16 generated by the project, the degree to which the findings of the
17 projects can be disseminated and evaluated for replication
18 elsewhere, and the consistency of, and contributions of, the project
19 to the state's hazardous waste management program.

20 (c) Using the criteria adopted pursuant to subdivision (b), select
21 projects to receive grants to construct equipment which would be
22 used to demonstrate hazardous waste reduction, recycling, or
23 treatment technologies. A grant issued by the department pursuant
24 to this section is not subject to Chapter 2 (commencing with
25 Section 10290) of Part 2 of *Division 2* of the Public Contract Code,
26 including, but not limited to, Section 10295 of the Public Contract
27 Code, or Chapter 10 (commencing with Section 4525) of Division
28 5 of Title 1 of the Government Code. The department shall select
29 projects which also meet at least one of the following requirements:

30 (1) The project has onsite, as well as offsite potential, for the
31 reduction, recycling, or treatment of hazardous waste.

32 (2) The project has the potential to benefit, or be utilized by,
33 small businesses.

34 (3) The project is applicable to a range of industries.

35 *SEC. 16. Section 25244.15.1 of the Health and Safety Code is*
36 *amended to read:*

37 25244.15.1. (a) The California Source Reduction Advisory
38 Committee is hereby created and consists of the following
39 members:

1 (1) The Executive Director of the State Air Resources Board,
2 as an ex officio member.

3 (2) The Executive Director of the State Water Resources Control
4 Board, as an ex officio member.

5 (3) The Director of ~~Toxic Substances Control~~ *Toxics and Waste*
6 *Management*, as an ex officio member.

7 (4) The ~~Executive Director of the Integrated Waste Management~~
8 ~~Board~~, *Department of Resources Recycling and Recovery* as an
9 ex officio member.

10 (5) The Chairperson of the California Environmental Policy
11 Council established pursuant to Section 71017 of the Public
12 Resources Code, as an ex officio member.

13 (6) Ten public members with experience in source reduction as
14 appointed by the department. These public members shall include
15 all of the following:

16 (A) Two representatives of local governments from different
17 regions of the state.

18 (B) One representative of a publicly owned treatment works.

19 (C) Two representatives of industry.

20 (D) One representative of small business.

21 (E) One representative of organized labor.

22 (F) Two representatives of statewide environmental advocacy
23 organizations.

24 (G) One representative of a statewide public health advocacy
25 organization.

26 (7) The department may appoint up to two additional public
27 members with experience in source reduction and detailed
28 knowledge of one of the priority categories of generators selected
29 in accordance with Section 25244.17.1.

30 (b) The advisory committee shall select one member to serve
31 as chairperson.

32 (c) The members of the advisory committee shall serve without
33 compensation, but each member, other than officials of the state,
34 shall be reimbursed for all reasonable expenses incurred in the
35 performance of his or her duties, as authorized by the department.

36 (d) The advisory committee shall meet at least semiannually to
37 provide a public forum for discussion and deliberation on matters
38 pertaining to the implementation of this chapter.

39 (e) The advisory committee's responsibilities shall include, but
40 not be limited to, the following:

1 (1) Reviewing and providing consultation and guidance in the
2 preparation of the work plan required by Section 25244.22.

3 (2) Evaluating the performance and progress of the department's
4 source reduction program.

5 (3) Making recommendations to the department concerning
6 program activities and funding priorities, and legislative changes,
7 if needed.

8 (f) The advisory committee established by this section shall be
9 in existence until April 15, 2002, by which date the department
10 shall, in consultation with the advisory committee, evaluate the
11 role and activities of the advisory committee and determine if the
12 committee is beneficial to the implementation of this article. On
13 and after April 15, 2002, the advisory committee shall continue to
14 exist and operate to the extent that the department, in consultation
15 with the advisory committee, determines the advisory committee
16 continues to be beneficial to the operation of the department's
17 source reduction programs.

18 *SEC. 17. Section 25250.1 of the Health and Safety Code is*
19 *amended to read:*

20 25250.1. (a) As used in this article, the following terms have
21 the following meaning:

22 (1) (A) "Used oil" means all of the following:

23 (i) Oil that has been refined from crude oil, or any synthetic oil,
24 that has been used, and, as a result of use or as a consequence of
25 extended storage, or spillage, has been contaminated with physical
26 or chemical impurities.

27 (ii) Material that is subject to regulation as used oil under Part
28 279 (commencing with Section 279.1) of Subchapter I of Chapter
29 1 of Title 40 of the Code of Federal Regulations.

30 (B) Examples of used oil are spent lubricating fluids that have
31 been removed from an engine crankcase, transmission, gearbox,
32 or differential of an automobile, bus, truck, vessel, plane, heavy
33 equipment, or machinery powered by an internal combustion
34 engine; industrial oils, including compressor, turbine, and bearing
35 oil; hydraulic oil; metalworking oil; refrigeration oil; and railroad
36 drainings.

37 (C) "Used oil" does not include any of the following:

38 (i) Oil that has a flashpoint below 100 degrees Fahrenheit or
39 that has been mixed with hazardous waste, other than minimal
40 amounts of vehicle fuel.

1 (ii) (I) Wastewater, the discharge of which is subject to
2 regulation under either Section 307(b) (33 U.S.C. Sec. 1317(b))
3 or Section 402 (33 U.S.C. Sec. 1342) of the federal Clean Water
4 Act (33 U.S.C. Sec. 1251 et seq.), including wastewaters at
5 facilities that have eliminated the discharge of wastewater,
6 contaminated with de minimis quantities of used oil.

7 (II) For purposes of this clause, “de minimis quantities of used
8 oil” are small spills, leaks, or drippings from pumps, machinery,
9 pipes, and other similar equipment during normal operations, or
10 small amounts of oil lost to the wastewater treatment system during
11 washing or draining operations.

12 (III) This exception does not apply if the used oil is discarded
13 as a result of abnormal manufacturing operations resulting in
14 substantial leaks, spills, or other releases or to used oil recovered
15 from wastewaters.

16 (iii) Used oil re-refining distillation bottoms that are used as
17 feedstock to manufacture asphalt products.

18 (iv) Oil that contains polychlorinated biphenyls (PCBs) at a
19 concentration of 5 ppm or greater.

20 (v) (I) Oil containing more than 1000 ppm total halogens, which
21 shall be presumed to be a hazardous waste because it has been
22 mixed with halogenated hazardous waste listed in Subpart D
23 (commencing with Section 261.30) of Part 261 of Subchapter I of
24 Chapter 1 of Title 40 of the Code of Federal Regulations.

25 (II) A person may rebut the presumption specified in subclause
26 (I) by demonstrating that the used oil does not contain hazardous
27 waste, including, but not limited to, in the manner specified in
28 subclause (III).

29 (III) The presumption specified in subclause (I) is rebutted if it
30 is demonstrated that the used oil that is the source of total halogens
31 at a concentration of more than 1000 ppm is solely either household
32 waste, as defined in Section 261.4(b)(1) of Title 40 of the Code
33 of Federal Regulations, or is collected from conditionally exempt
34 small quantity generators, as defined in Section 261.5 of Title 40
35 of the Code of Federal Regulations. Nothing in this subclause
36 authorizes any person to violate the prohibition specified in Section
37 25250.7.

38 ~~(2) “Board” means the California Integrated Waste Management~~
39 ~~Board.~~

40 (3)

(2) (A) “Recycled oil” means any oil that meets all of the following requirements specified in clauses (i) to (iii), inclusive:

(i) Is produced either solely from used oil, or is produced solely from used oil that has been mixed with one or more contaminated petroleum products or oily wastes, other than wastes listed as hazardous under the federal act, provided that if the resultant mixture is subject to regulation as a hazardous waste under Section 279.10(b)(2) of Title 40 of the Code of Federal Regulations, the mixture is managed as a hazardous waste in accordance with all applicable hazardous waste regulations, and the recycled oil produced from the mixture is not subject to regulation as a hazardous waste under Section 279.10(b)(2) of Title 40 of the Code of Federal Regulations. If the oily wastes with which the used oil is mixed were recovered from a unit treating hazardous wastes that are not oily wastes, these recovered oily wastes are not excluded from being considered as oily wastes for purposes of this section or Section 25250.7.

(ii) The recycled oil meets one of the following requirements:

(I) The recycled oil is produced by a generator lawfully recycling its oil.

(II) The recycled oil is produced at a used oil recycling facility that is authorized to operate pursuant to Section 25200 or 25200.5 solely by means of one or more processes specifically authorized by the department. The department may not authorize a used oil recycling facility to use a process in which used oil is mixed with one or more contaminated petroleum products or oily wastes unless the department determines that the process to be authorized for mixing used oil with those products or wastes will not substantially contribute to the achievement of compliance with the specifications of subparagraph (B).

(III) The recycled oil is produced in another state, and the used oil recycling facility where the recycled oil is produced, and the process by which the recycled oil is produced, are authorized by the agency authorized to implement the federal act in that state.

(iii) Has been prepared for reuse and meets all of the following standards:

(I) The oil meets the standards of purity set forth in subparagraph (B).

(II) If the oil was produced by a generator lawfully recycling its oil or the oil is lawfully produced in another state, the oil is not

1 hazardous pursuant to the criteria adopted by the department
2 pursuant to Section 25141 for any characteristic or constituent
3 other than those listed in subparagraph (B).

4 (III) The oil is not mixed with any waste listed as a hazardous
5 waste in Part 261 (commencing with Section 261.1) of Subchapter
6 I of Chapter 1 of Title 40 of the Code of Federal Regulations.

7 (IV) The oil is not subject to regulation as a hazardous waste
8 under the federal act.

9 (V) If the oil was produced lawfully at a used oil recycling
10 facility in this state, the oil is not hazardous pursuant to any
11 characteristic or constituent for which the department has made
12 the finding required by subparagraph (B) of paragraph (2) of
13 subdivision (a) of Section 25250.19, except for one of the
14 characteristics or constituents identified in the standards of purity
15 set forth in subparagraph (B).

16 (B) The following standards of purity are in effect for recycled
17 oil, in liquid form, unless the department, by regulation, establishes
18 more stringent standards:

19 (i) Flashpoint: minimum standards set by the American Society
20 for Testing and Materials for the recycled products. However,
21 recycled oil to be burned for energy recovery shall have a minimum
22 flashpoint of 100 degrees Fahrenheit.

23 (ii) Total lead: 50 mg/kg or less.

24 (iii) Total arsenic: 5 mg/kg or less.

25 (iv) Total chromium: 10 mg/kg or less.

26 (v) Total cadmium: 2 mg/kg or less.

27 (vi) Total halogens: 3000 mg/kg or less. However, recycled oil
28 shall be demonstrated by testing to contain not more than 1000
29 mg/kg total halogens listed in Appendix VIII of Part 261
30 (commencing with Section 261.1) of Subchapter I of Chapter 1 of
31 Title 40 of the Code of Federal Regulations.

32 (vii) Total polychlorinated biphenyls (PCBs): less than 2 mg/kg.

33 (C) Compliance with the specifications of subparagraph (B) or
34 with the requirements of clauses (iv) and (v) of subparagraph (B)
35 of paragraph (1) shall not be met by blending or diluting used oil
36 with crude or virgin oil, or with a contaminated petroleum product
37 or oily waste, except as provided in subclause (II) of clause (ii) of
38 subparagraph (A), and shall be determined in accordance with the
39 procedures for identification and listing of hazardous waste adopted
40 in regulations by the department. Persons authorized by the

1 department to recycle oil shall maintain records of volumes and
2 characteristics of incoming used oil and outgoing recycled oil and
3 documentation concerning the recycling technology utilized to
4 demonstrate to the satisfaction of the department or other
5 enforcement agencies that the recycling has been achieved in
6 compliance with this subdivision.

7 (D) This paragraph does not apply to oil that is to be disposed
8 of or used in a manner constituting disposal.

9 ~~(4)~~

10 (3) “Used oil recycling facility” means a facility that reprocesses
11 or re-refines used oil.

12 ~~(5)~~

13 (4) “Used oil storage facility” means a storage facility, as
14 defined in subdivision (b) of Section 25123.3, that stores used oil.

15 ~~(6)~~

16 (5) “Used oil transfer facility” means a transfer facility, as
17 defined in subdivision (a) of Section 25123.3, that meets the
18 qualifications to be a storage facility, for purposes of Section
19 25123.3.

20 ~~(7)~~

21 (6) (A) For purposes of this section and Section 25250.7 only,
22 “contaminated petroleum product” means a product that meets all
23 of the following conditions:

24 (i) It is a hydrocarbon product whose original intended purpose
25 was to be used as a fuel, lubricant, or solvent.

26 (ii) It has not been used for its original intended purpose.

27 (iii) It is not listed in Subpart D (commencing with Section
28 ~~251.30~~ 261.30) of Part 261 of Subchapter I of Chapter 1 of Title
29 40 of the Code of Federal Regulations.

30 (iv) It has not been mixed with a hazardous waste other than
31 another contaminated petroleum product.

32 (B) Nothing in this section or Section 25250.7 shall be construed
33 to affect the exemptions in Section 25250.3, or to subject
34 contaminated petroleum products that are not hazardous waste to
35 any requirements of this chapter.

36 (b) Unless otherwise specified, used oil that meets either of the
37 following conditions is not subject to regulation by the department:

38 (1) The used oil has not been treated by the generator of the
39 used oil, the generator claims the used oil is exempt from regulation

1 by the department, and the used oil meets all of the following
2 conditions:

3 (A) The used oil meets the standards set forth in subparagraph
4 (B) of paragraph (3) of subdivision (a).

5 (B) The used oil is not hazardous pursuant to the criteria adopted
6 by the department pursuant to Section 25141 for any characteristic
7 or constituent other than those listed in subparagraph (B) of
8 paragraph (3) of subdivision (a).

9 (C) The used oil is not mixed with any waste listed as a
10 hazardous waste in Part 261 (commencing with Section 261.1) of
11 Subchapter I of Chapter 1 of Title 40 of the Code of Federal
12 Regulations.

13 (D) The used oil is not subject to regulation as either hazardous
14 waste or used oil under the federal act.

15 (E) The generator of the used oil has complied with the
16 notification requirements of subdivision (c) and the testing and
17 recordkeeping requirements of Section 25250.19.

18 (F) The used oil is not disposed of or used in a manner
19 constituting disposal.

20 (2) The used oil meets all the requirements for recycled oil
21 specified in paragraph (3) of subdivision (a), the requirements of
22 subdivision (c), and the requirements of Section 25250.19.

23 (c) Used oil recycling facilities and generators lawfully recycling
24 their own used oil that are the first to claim that recycled oil meets
25 the requirements specified in paragraph (2) of subdivision (b) shall
26 maintain an operating log and copies of certification forms, as
27 specified in Section 25250.19. Any person who generates used
28 oil, and who claims that the used oil is exempt from regulation
29 pursuant to paragraph (1) of subdivision (b), shall notify the
30 department, in writing, of that claim and shall comply with the
31 testing and recordkeeping requirements of Section 25250.19 prior
32 to its reuse. In any action to enforce this article, the burden is on
33 the generator or recycling facility, whichever first claimed that the
34 used oil or recycled oil meets the standards and criteria, and on
35 the transporter or the user of the used oil or recycled oil, whichever
36 has possession, to prove that the oil meets those standards and
37 criteria.

38 (d) Used oil shall be managed in accordance with the
39 requirements of this chapter and any additional applicable
40 requirements of Part 279 (commencing with Section 279.1) of

1 Subchapter I of Chapter 1 of Title 40 of the Code of Federal
2 Regulations.

3 *SEC. 18. Section 25250.15 of the Health and Safety Code is*
4 *amended to read:*

5 25250.15. (a) Any person operating a refuse removal vehicle
6 or a curbside collection vehicle used to collect or transport used
7 oil which has been generated as a household waste or as part of a
8 curbside recycling program, as defined by the ~~board~~ department,
9 is exempt from the requirements of Sections 25160 and ~~25250.8~~
10 25160.2, and subdivision (a) of Section 25163 of this code and
11 Chapter 2.5 (commencing with Section 2500) of Division 2 of,
12 Division 14.1 (commencing with Section 32000) of, and
13 subdivision (g) of Section 34500 of, the Vehicle Code.

14 (b) Refuse removal and other curbside collection operations
15 exempted under subdivision (a) are also exempt from permit
16 requirements pursuant to Article 9 (commencing with Section
17 25200), if the storage location meets all applicable hazardous waste
18 generator, container, and tank requirements, except for the
19 generator fee requirement specified in subdivision (d).

20 (c) Used oil collected pursuant to this section shall be deemed
21 to be generated by the storage location upon receipt.

22 (d) Used oil collected pursuant to this section is exempt from
23 the generator fee imposed pursuant to Section 25205.5.

24 *SEC. 19. Section 25250.18 of the Health and Safety Code is*
25 *amended to read:*

26 25250.18. (a) Any person who transports recycled oil or oil
27 exempted pursuant to paragraph (1) of subdivision (b) of Section
28 25250.1 shall maintain with each shipment a certification form,
29 provided by the department, which contains all of the following
30 information:

31 (1) The name and address of the used oil recycling facility or
32 generator claiming the oil meets the requirements of Section
33 25250.1.

34 (2) The name and address of the facility receiving the shipment.

35 (3) The quantity of oil delivered.

36 (4) The date of shipment or delivery.

37 (5) A cross-reference to the records and documentation required
38 under Section 25250.1.

(b) Certification forms required in subdivision (a) shall be maintained for three years and are subject to an audit and verification by the department ~~or the board~~.

SEC. 20. Section 25250.19 of the Health and Safety Code is amended to read:

25250.19. (a) (1) A used oil recycler shall test all recycled oil in accordance with paragraph (2), prior to transportation from the recycling facility, pursuant to applicable methods in the Environmental Protection Agency Document No. Solid Waste 846 or an equivalent alternative method approved or required by the department, and shall ensure and certify the oil as being in compliance with the standards specified in paragraph (3) of subdivision (a) of Section 25250.1.

(2) The used oil recycler shall test the recycled oil for compliance with the purity standards set forth in subparagraph (B) of paragraph (3) of subdivision (a) of Section 25250.1, and for any other hazardous characteristics or constituents for which testing is required in the permit issued by the department for the used oil recycling facility. The permit shall require testing for compliance with the purity standards set forth in subparagraph (B) of paragraph (3) of subdivision (a) of Section 25250.1. The permit may also require testing for other hazardous characteristics and constituents only if the department finds, based upon evidence in the record, all of the following:

(A) There is a reasonable expectation that the recycled oil may exhibit the hazardous characteristic or contain the hazardous constituent at a level that would cause it to be hazardous waste if the recycled oil were a waste, taking into consideration at least all of the following factors:

(i) The conditions included in the facility's permit limiting the wastes that may be accepted at the facility and the conditions requiring testing of the wastes accepted at the facility.

(ii) The types of wastes that historically have been accepted by the facility or similar facilities and the types of wastes that the facility can reasonably be expected to accept in the future, including any new products or constituents.

(iii) Previous test results of recycled oil produced by the facility indicating the presence, or lack of the presence, of the constituent or characteristic at a level that would cause it to be hazardous waste if the recycled oil were a waste.

1 (iv) The treatment technologies and methods authorized in the
2 facility's permit for production of the recycled oil and the extent
3 to which those treatment technologies and methods remove or
4 reduce the constituents or characteristics from the wastes accepted
5 by the facility; and

6 (B) The hazardous characteristic or constituent cannot
7 reasonably be expected to be present in products produced from
8 crude oil similar to the recycled oil products produced by the
9 facility at levels that would cause the product produced from crude
10 oil to be a hazardous waste if it were a waste.

11 (3) Records of tests performed pursuant to this subdivision and
12 a copy of each form completed pursuant to Section 25250.18 shall
13 be maintained for three years and are subject to audit and
14 verification by the department ~~or the board~~. The department shall
15 perform an audit and verification on a periodic basis. The
16 department may charge a reasonable fee for this activity.

17 (b) (1) A generator claiming that used oil is exempted from
18 regulation pursuant to paragraph (1) of subdivision (b) of Section
19 25250.1 shall ensure that all used oil for which the exemption is
20 claimed has been tested and certified as being in compliance with
21 the standards specified in paragraph (1) of subdivision (b) of
22 Section 25250.1, prior to transportation from the generator location.
23 A generator lawfully recycling its own oil shall ensure that all
24 recycled oil has been tested and certified as being in compliance
25 with the requirements specified in paragraph (2) of subdivision
26 (b) of Section 25250.1. Records of tests performed and a copy of
27 each form completed pursuant to Section 25250.18 shall be
28 maintained for three years and are subject to audit and verification
29 by the department, or the unified program agency, ~~or the board~~.

30 (2) Testing to meet the requirements in subparagraph (B) of
31 paragraph (1) of subdivision (b) of Section 25250.1 is not required
32 for dielectric fluid, derived from highly refined petroleum mineral
33 oil, from oil-filled electrical equipment if the generator of the
34 dielectric fluid has certified based on prior test results that the
35 dielectric fluid from similar equipment subject to similar operating
36 conditions did not exhibit the characteristic of toxicity as set forth
37 in Section 66261.24 of Title 22 of the California Code of
38 Regulations. A certification statement shall accompany each
39 shipment of used oil that the generator claims is exempted. Records
40 of prior tests on which the certification is based shall be maintained

1 with the certification by the generator and are subject to audit and
2 verification by the department, or the unified program agency,~~or~~
3 ~~the board.~~

4 (c) Used oil recyclers identified in subdivision (a) and generators
5 identified in subdivision (b) shall record in an operating log and
6 retain for three years the information specified in paragraphs (1)
7 to (5), inclusive, of subdivision (a) of Section 25250.18 on each
8 shipment of recycled or exempted oil.

9 (d) Operating logs required in subdivision (c) are subject to
10 audit and verification by the department, or the unified program
11 agency,~~or the board.~~

12 (e) (1) If oil produced at a used oil recycling facility in this
13 state meets the standards of purity set forth in subparagraph (B)
14 of paragraph (3) of subdivision (a) of Section 25250.1 and is not
15 hazardous due to the presence of a characteristic or constituent for
16 which the department has made a finding required by
17 subparagraphs (A) and (B) of paragraph (2) of subdivision (a), but
18 the oil is hazardous due to the presence of another constituent or
19 characteristic, the facility operator shall not be subject to a penalty
20 pursuant to this chapter for failing to manage the oil as a hazardous
21 waste, unless both of the following apply:

22 (A) While the oil was onsite at the facility, the operator of the
23 facility knew, or reasonably should have known, that the oil failed
24 to meet those criteria.

25 (B) The facility operator failed to take action to manage the oil
26 as a hazardous waste when the oil was determined to be hazardous.

27 (2) The department may exercise its authority, including, but
28 not limited to, the issuance of an order, to a used oil recycling
29 facility pursuant to Section 25187, to ensure that oil subject to this
30 subdivision is managed as a hazardous waste pursuant to this
31 chapter.

32 *SEC. 21. Section 25312 of the Health and Safety Code is*
33 *amended to read:*

34 25312. “Department” means the ~~Department of Toxic~~
35 ~~Substances Control~~ *Department of Toxics and Waste Management.*

36 *SEC. 22. Section 25313 of the Health and Safety Code is*
37 *amended to read:*

38 25313. “Director” means the Director of ~~Toxic Substances~~
39 ~~Control~~ *Toxics and Waste Management.*

1 *SEC. 23. Section 33459.1 of the Health and Safety Code is*
2 *amended to read:*

3 33459.1. (a) (1) An agency may take any actions that the
4 agency determines are necessary and that are consistent with other
5 state and federal laws to remedy or remove a release of hazardous
6 substances on, under, or from property within a project area,
7 whether the agency owns that property or not, subject to the
8 conditions specified in subdivision (b). Unless an administering
9 agency has been designated under Section 25262, the agency shall
10 request cleanup guidelines from the department or the California
11 regional water quality control board before taking action to remedy
12 or remove a release. The department or the California regional
13 water quality control board shall respond to the agency's request
14 to provide cleanup guidelines within a reasonable period of time.
15 The agency shall thereafter submit for approval a cleanup or
16 remedial action plan to the department or the California regional
17 water quality control board before taking action to remedy or
18 remove a release. The department or the California regional water
19 quality control board shall respond to the agency's request for
20 approval of a cleanup or remedial action plan within a reasonable
21 period of time.

22 (2) The agency shall provide the department and local health
23 and building departments, the California regional water quality
24 control board, with notification of any cleanup activity pursuant
25 to this section at least 30 days before the commencement of the
26 activity. If an action taken by an agency or a responsible party to
27 remedy or remove a release of a hazardous substance does not
28 meet, or is not consistent with, a remedial action plan or cleanup
29 plan approved by the department or the California regional water
30 quality control board, the department or the California regional
31 water quality control board that approved the cleanup or remedial
32 action plan may require the agency to take, or cause the taking of,
33 additional action to remedy or remove the release, as provided by
34 applicable law. If an administering agency for the site has been
35 designated under Section 25262, any requirement for additional
36 action may be imposed only as provided in Sections 25263 and
37 25265. If methane or landfill gas is present, the agency shall obtain
38 written approval from the ~~California Integrated Waste Management~~
39 ~~Board~~ department prior to taking that action.

1 (b) Except as provided in subdivision (c), an agency may take
2 the actions specified in subdivision (a) only under one of the
3 following conditions:

4 (1) There is no responsible party for the release identified by
5 the agency.

6 (2) A party determined by the agency to be a responsible party
7 for the release has been notified by the agency or has received
8 adequate notice from the department, a California regional water
9 quality control board, the Environmental Protection Agency, or
10 other governmental agency with relevant authority and has been
11 given 60 days to respond and to propose a remedial action plan
12 and schedule, and the responsible party has not agreed within an
13 additional 60 days to implement a plan and schedule to remedy or
14 remove the release that is acceptable to the agency and that has
15 been found by the agency to be consistent, to the maximum extent
16 possible, with the priorities, guidelines, criteria, and regulations
17 contained in the National Contingency Plan and published pursuant
18 to Section 9605 of Title 42 of the United States Code for similar
19 releases, situations, or events.

20 (3) The party determined by the agency to be the responsible
21 party for the hazardous substance release entered into an agreement
22 with the agency to prepare a remedial action plan for approval by
23 the department, the California regional water quality control board,
24 or the appropriate local agency and to implement the remedial
25 action plan in accordance with an agreed schedule, but failed to
26 prepare the remedial action plan, failed to implement the remedial
27 action plan in accordance with the agreed schedule, or otherwise
28 failed to carry out the remedial action in an appropriate and timely
29 manner. Any action taken by the agency pursuant to this paragraph
30 shall be consistent with any agreement between the agency and
31 the responsible party and with the requirements of the state or local
32 agency that approved or will approve the remedial action plan and
33 is overseeing or will oversee the preparation and implementation
34 of the remedial action plan.

35 (c) Subdivision (b) does not apply to either of the following
36 agencies:

37 (1) An agency taking actions to investigate or conduct feasibility
38 studies concerning a release.

39 (2) An agency taking the actions specified in subdivision (a) if
40 the agency determines that conditions require immediate action.

(d) An agency may designate a local agency in lieu of the department or the California regional water quality control board to review and approve a cleanup or remedial action plan and to oversee the remediation or removal of hazardous substances from a specific hazardous substance release site in accordance with the following conditions:

(1) The local agency may be so designated if it is designated as the administering agency under Section 25262. In that event, the local agency, as the administering agency, shall conduct the oversight of the remedial action in accordance with Chapter 6.65 (commencing with Section 25260) of *Division 20* and all provisions of that chapter shall apply to the remedial action.

(2) The local agency may be so designated if cleanup guidelines were requested from a California regional water quality control board, and the site is an underground storage tank site subject to Chapter 6.7 (commencing with Section 25280) of *Division 20*, the local agency has been certified as a certified unified program agency pursuant to Section 25404.1, the State Water Resources Control Board has entered into an agreement with the local agency for oversight of those sites pursuant to Section 25297.1, the local agency determines that the site is within the guidelines and protocols established in, and pursuant to, that agreement, and the local agency consents to the designation.

(3) A local agency may not consent to the designation by an agency unless the local agency determines that it has adequate staff resources and the requisite technical expertise and capabilities available to adequately supervise the remedial action.

(4) (A) Where a local agency has been designated pursuant to paragraph (2), the department or a California regional water quality control board may require that a local agency withdraw from the designation, after providing the agency with adequate notice, if both of the following conditions are met:

(i) The department or a California regional water quality control board determines that an agency's designation of a local agency was not consistent with paragraph (2), or makes one of the findings specified in subdivision (d) of Section 101480.

(ii) The department or a California regional water quality control board determines that it has adequate staff resources and capabilities available to adequately supervise the remedial action, and assumes that responsibility.

1 (B) Nothing in this paragraph prevents a California regional
2 water quality control board from taking any action pursuant to
3 Division 7 (commencing with Section 13000) of the Water Code.

4 (5) Where a local agency has been designated pursuant to
5 paragraph (2), the local agency may, after providing the agency
6 with adequate notice, withdraw from its designation after making
7 one of the findings specified in subdivision (d) of Section 101480.

8 (e) To facilitate redevelopment planning, the agency may require
9 the owner or operator of any site within a project area to provide
10 the agency with all existing environmental information pertaining
11 to the site, including the results of any Phase I or subsequent
12 environmental assessment, as defined in Section 25200.14, any
13 assessment conducted pursuant to an order from, or agreement
14 with, any federal, state or local agency, and any other
15 environmental assessment information, except that which is
16 determined to be privileged. The person requested to furnish the
17 information shall be required only to furnish that information as
18 may be within their possession or control, including actual
19 knowledge of information within the possession or control of any
20 other party. If environmental assessment information is not
21 available, the agency may require the owner of the property to
22 conduct an assessment in accordance with standard real estate
23 practices for conducting phase I or phase II environmental
24 assessments.

25 *SEC. 24. Section 39762 of the Health and Safety Code is*
26 *amended to read:*

27 39762. (a) (1) The Agricultural Biomass Utilization Account
28 is hereby created in the Department of Food and Agriculture Fund.

29 (2) The sum of two million dollars (\$2,000,000) is hereby
30 appropriated from the General Fund to the Agricultural Biomass
31 Utilization Account for expenditure for the purposes identified in
32 subdivision (b).

33 (b) The account shall be administered by the department, in
34 consultation with the State Air Resources Board and the ~~California~~
35 ~~Integrated Waste Management Board~~ *Department of Toxics and*
36 *Waste Management*, for the purpose of providing grants to persons
37 that utilize agricultural biomass as a means of avoiding landfill
38 use, preventing air pollution, and enhancing environmental quality.

1 (c) Moneys in the account shall include moneys transferred
2 from the General Fund pursuant to subdivision (a) and any moneys
3 solicited by the secretary from other sources.

4 (d) The secretary shall actively solicit funds from other federal,
5 state, and private sources with the goal of initially supplementing
6 and eventually supplanting the appropriation from the General
7 Fund made pursuant to subdivision (a).

8 (e) The department may implement similar grant programs for
9 other commodity groups that are used for the purposes set forth
10 in paragraphs (1) to (6), inclusive, of subdivision (e) of Section
11 39763.

12 (f) The department shall not utilize more than 7 percent of the
13 funds described in subdivision (a) for the administration of the
14 account.

15 *SEC. 25. Section 39763 of the Health and Safety Code is*
16 *amended to read:*

17 39763. (a) The funds appropriated by paragraph (2) of
18 subdivision (a) of Section 39762, less administrative costs, shall
19 be dedicated for grants to persons that utilize rice straw.

20 (b) Grants shall be provided pursuant to this chapter in a manner
21 to be determined by the department, and shall include, but shall
22 not be limited to, grants on a per-ton basis and a per-project basis.

23 (c) On or before July 1 of each year, the secretary shall set the
24 per-ton grant level in an amount of not less than twenty dollars
25 (\$20) per ton of rice straw so utilized.

26 (d) Grants shall not be provided pursuant to this section for the
27 purchase of any rice straw for which a tax credit has been claimed
28 pursuant to Section 17052.10 of the Revenue and Taxation Code.

29 (e) A per-ton grant may be provided pursuant to this chapter
30 only if the applicant is the “end-user” of agricultural biomass. For
31 purposes of this subdivision, “end user” means a person who uses
32 agricultural biomass for any of the following purposes:

33 (1) Processing.

34 (2) Generating energy.

35 (3) Manufacturing.

36 (4) Exporting.

37 (5) Preventing erosion.

38 (6) Any other environmentally sound purpose, excluding
39 open-field burning, as determined to be appropriate by the
40 department.

1 (f) Criteria to be considered by the department in determining
2 whether to award a grant pursuant to this chapter shall include,
3 but shall not be limited to, the following:

4 (1) Quantity of biomass to be utilized.

5 (2) Whether the proposed use offers other environmental or
6 public policy benefits, including but not limited to, landfill
7 avoidance, pollution prevention, electrical generation, and
8 sustainability.

9 (3) The degree to which the proposed grant would assist in
10 moving the commodity group toward an eventual free market
11 utilization of biomass without the assistance of government.

12 (g) The secretary shall select grant recipients in consultation
13 with the State Air Resources Board, the ~~Integrated Waste~~
14 ~~Management Board~~ *Department of Toxics and Waste Management*,
15 and the advisory committee created pursuant to subdivision ~~(h)~~ (l)
16 of Section 41865 from a list of potential grantees recommended
17 by the Department of Food and Agriculture.

18 *SEC. 26. Section 41705 of the Health and Safety Code, as*
19 *amended by Section 144 of Chapter 664 of the Statutes of 2002,*
20 *is amended to read:*

21 41705. (a) Section 41700 does not apply to odors emanating
22 from any of the following:

23 (1) Agricultural operations necessary for the growing of crops
24 or the raising of fowl or animals.

25 (2) Operations that produce, manufacture, or handle compost,
26 as defined in Section 40116 of the Public Resources Code, if the
27 odors emanate directly from the compost facility or operations.

28 (3) Operations that compost green material or animal waste
29 products derived from agricultural operations, and that return
30 similar amounts of the compost produced to that same agricultural
31 operations source, or to an agricultural operations source owned
32 or leased by the owner, parent company, or subsidiary conducting
33 the composting operation. The composting operation may produce
34 an incidental amount of compost not exceeding 2,500 cubic yards
35 of compost, which may be given away or sold annually.

36 (b) If a district receives a complaint pertaining to an odor
37 emanating from a compost operation exempt from Section 41700
38 pursuant to paragraph (2) or (3) of subdivision (a), that is subject
39 to the jurisdiction of an enforcement agency under Division 30
40 (commencing with Section 40000) of the Public Resources Code,

1 the district shall, within 24 hours or by the next working day, refer
2 the complaint to the enforcement agency.

3 (c) This section shall become inoperative on April 1, 2003,
4 unless the ~~California Integrated Waste Management Board~~
5 *Department of Toxics and Waste Management* adopts and submits
6 regulations governing the operation of organic composting sites
7 to the Office of Administrative Law pursuant to subdivision (c)
8 of Section 43209.1 of the Public Resources Code on or prior to
9 that date.

10 *SEC. 27. Section 41705 of the Health and Safety Code, as*
11 *amended by Section 145 of Chapter 664 of the Statutes of 2002,*
12 *is amended to read:*

13 41705. (a) Section 41700 shall not apply to odors emanating
14 from agricultural operations necessary for the growing of crops or
15 the raising of fowl or animals.

16 (b) This section shall become operative on April 1, 2003, unless
17 the ~~California Integrated Waste Management Board~~ *Department*
18 *of Toxics and Waste Management* adopts and submits regulations
19 governing the operation of organic composting sites to the Office
20 of Administrative Law pursuant to subdivision (c) of Section
21 43209.1 of the Public Resources Code on or prior to that date.

22 *SEC. 28. Section 41805.5 of the Health and Safety Code is*
23 *amended to read:*

24 41805.5. (a) Except as provided in subdivisions (b) and (c),
25 the operator of a solid waste disposal site shall submit to the district
26 on or before July 1, 1987, a solid waste air quality assessment test
27 report that contains all of the following:

28 (1) Test results to determine if there is any underground landfill
29 gas migration beyond the solid waste disposal site's perimeter.

30 (2) Analyses for specified air contaminants in the ambient air
31 adjacent to the solid waste disposal site to determine the effect of
32 the site on air quality.

33 (3) Chemical characterization test results to determine the
34 composition of gas streams immediately above the solid waste
35 disposal site, or immediately above the solid waste disposal site
36 and within the solid waste disposal site, as appropriate, as
37 determined by the district.

38 (4) Any other information that the district board requires, by
39 emergency regulation.

1 The solid waste air quality assessment test report shall be
2 prepared in accordance with the guidelines developed by the state
3 board pursuant to subdivision (d).

4 (b) The operator of an inactive solid waste disposal site shall
5 complete and submit the screening questionnaire, developed
6 pursuant to subdivision (e), to the district on or before November
7 1, 1986, unless the operator is required to submit a report
8 containing the same information specified in subdivision (a)
9 pursuant to a federal, state, or district order, or unless exempted
10 pursuant to subdivision (c). The district shall evaluate the submitted
11 screening questionnaires in accordance with the guidelines
12 developed pursuant to subdivision (e) and shall determine whether
13 the operator of the site is required to submit all, or a portion of,
14 the information required to be reported in a solid waste air quality
15 assessment test report. The district shall notify the operator in
16 writing on or before January 1, 1987, of the information identified
17 in subdivision (a) to be submitted for the site. After receiving this
18 notification, the operator of the inactive solid waste disposal site
19 shall submit a solid waste air quality assessment test report
20 containing the required information on or before January 1, 1988,
21 to the district.

22 (c) A district may exempt from subdivisions (a) and (b) a solid
23 waste disposal site or inactive solid waste disposal site that has
24 accepted or now contains only inert and nondecomposable solids.
25 To receive an exemption, the operator of the site shall submit, on
26 or before November 1, 1986, a copy of all permits, all waste
27 discharge requirements pertinent to the site, and any other data
28 necessary for the district to determine whether an exemption should
29 be granted to the site.

30 (d) On or before February 1, 1987, the state board, in
31 coordination with the districts, shall develop and publish test
32 guidelines for the solid waste air quality assessment report
33 specifying the air contaminants to be tested for and identifying
34 acceptable testing, analytical, and reporting methods to be
35 employed in completing the report.

36 (e) On or before October 1, 1986, the state board, in coordination
37 with the districts, shall develop and publish a screening
38 questionnaire for inactive solid waste disposal sites and guidelines
39 for evaluating the questionnaire by the districts pursuant to
40 subdivision (b). The screening questionnaire and guidelines shall

1 require an inactive solid waste disposal site to be evaluated based
2 on the nature and age of materials in the site, the quantity of
3 materials in the site, the size of the site, and other appropriate
4 factors. The guidelines for evaluating the screening questionnaire
5 shall require a district to weigh heavily the proximity of the site
6 to residences, schools, and other sensitive areas, and to pay
7 particular attention to potential adverse impacts on facilities such
8 as hospitals and schools, and on residential areas, within one mile
9 of the site's perimeter.

10 (f) A district may reevaluate the status of a solid waste disposal
11 site, including sites exempted pursuant to subdivision (c), and
12 require the operator to submit or revise a solid waste air quality
13 assessment test report after January 1, 1987. The district shall give
14 written notification to the operator of the solid waste disposal site
15 that a solid waste air quality assessment test report is to be
16 submitted, or that the existing report is to be revised, and the date
17 by which the report is to be submitted.

18 (g) A district shall evaluate any solid waste air quality
19 assessment test reports submitted pursuant to subdivisions (a), (b),
20 and (f), and determine if the report's testing, analytical, and
21 reporting methods comply with the guidelines developed pursuant
22 to subdivision (d). If the district determines that the solid waste
23 air quality assessment test report complies with the guidelines, it
24 shall evaluate the data. If the district determines, after evaluation
25 of the report and consultation with the state department and the
26 ~~California Integrated Waste Management Board~~ *Department of*
27 *Toxics and Waste Management*, that levels of one or more specified
28 air contaminants pose a health risk to human beings or a threat to
29 the environment, the district shall take appropriate remedial action.

30 (h) If a district determines that a solid waste air quality
31 assessment test report does not comply with the guidelines
32 developed pursuant to subdivision (d), the district shall provide
33 the operator of the site with a written notice specifying the
34 inadequacies of the report and shall require the operator to correct
35 the deficiencies and resubmit the report by a date determined by
36 the district.

37 (i) For the purpose of this section, the following definitions
38 apply:

1 (1) "Inactive solid waste disposal site" means a solid waste
2 disposal site that has not received any solid waste for disposal after
3 January 1, 1984.

4 (2) "Landfill gas" means any untreated, raw gas derived through
5 a natural process from the decomposition of organic waste
6 deposited in a solid waste disposal site or from the evolution of
7 volatile species in the waste.

8 (3) "Operator" means the person who operates or manages, or
9 who has operated or managed, the solid waste disposal site. If the
10 operator of the solid waste disposal site no longer exists, or is
11 unable, as determined by the district, to comply with the
12 requirements of this section, "operator" means any person who
13 owns or who has owned the solid waste disposal site.

14 (4) "Perimeter" means the outer boundary of the entire solid
15 waste disposal site property.

16 (5) "Solid waste disposal site" means a place, location, tract of
17 land, area, or premises in use, or which has been used, for the
18 landfill disposal of solid waste, as defined in Section 40191 of the
19 Public Resources Code, or hazardous waste, as defined in Section
20 40141 of the Public Resources Code, or both.

21 (6) "Specified air contaminants" means substances determined
22 to be air contaminants by the state board in coordination with the
23 districts. The state board and the districts shall consider determining
24 the following compounds to be air contaminants for purposes of
25 this paragraph: benzene, chloroethene, 1,2-dibromoethane,
26 1,2-dichloroethane benzyl chloride, chlorobenzene,
27 dichlorobenzene, 1,1-dichloroethene, dichloromethane,
28 formaldehyde, hydrogen sulfide, tetrachloroethylene,
29 tetrachloromethane, toluene, 1,1,1-trichloroethane,
30 trichloroethylene, trichloromethane, xylene, and any other
31 substance deemed appropriate by the state board or a district.

32 *SEC. 29. Section 41865.5 of the Health and Safety Code is*
33 *amended to read:*

34 ~~41865.5. Notwithstanding Section 7550.5 of the Government~~
35 ~~Code, on or before January 1, 2001, the State Air Resources~~
36 ~~Board, in consultation with the Department of Food and~~
37 ~~Agriculture, and in cooperation with the State Energy Resources~~
38 ~~Conservation and Development Commission and the California~~
39 ~~Integrated Waste Management Board Department of Toxics and~~
40 ~~Waste Management, shall prepare and submit to the Legislature~~

1 recommendations for ensuring consistency and predictability in
2 the supply of rice straw for cost-effective uses, including, but not
3 limited to, recommendations for methods of harvesting, storing,
4 and distributing rice straw for off-field uses. Off-field uses may
5 include, but are not limited to, the production of energy and fuels,
6 construction materials, pulp and paper, and livestock feed.

7 *SEC. 30. Section 10507.5 of the Public Contract Code is*
8 *amended to read:*

9 10507.5. It is the intent of the Legislature to encourage the
10 procurement of recycled paper products by the University of
11 California by developing guidelines to encourage the procurement
12 of recycled paper products where suitable for the uses intended
13 and where the quality is equal and the price is equal or less than
14 nonrecycled paper products. It is also the intent of the Legislature
15 that the regents report annually to the Legislature, the Governor,
16 and the ~~California Integrated Waste Management Board~~
17 *Department of Resources Recycling and Recovery* commencing
18 January 1, 1991, on the percentage of the total dollar amount of
19 recycled paper products purchased or procured under this article.

20 *SEC. 31. Section 12153 of the Public Contract Code is amended*
21 *to read:*

22 12153. The Legislature finds and declares all of the following:

23 (a) It is the policy of the state to conserve and protect resources
24 for future citizens as well as the current population of the state.

25 (b) It is in the best interest of the people of the state that the
26 state alter its perception of solid waste to instead look upon this
27 waste as resources that can be recovered and reused.

28 (c) It is in the best interest of reducing the increasing burden on
29 communities disposing of the state's solid waste for the state to
30 take a role in developing an integrated state solid waste
31 management policy, which includes source reduction, recycling,
32 composting, market development, incineration, and landfills. Since
33 recycling is a necessary component of this policy, the state shall
34 encourage the use of recycled products to ensure that the state's
35 industries have sufficient and adequate markets for products
36 regeneratively utilizing the state's solid waste as recycled resources.

37 (d) It is the policy of the state to encourage the expansion of
38 businesses located in California and, to whatever extent possible,
39 to look favorably on California businesses in the recycling industry,
40 which include, but are not limited to, those California businesses

1 that manufacture, distribute, or act as brokers for, recycled
2 products.

3 (e) Market development is the key to moving beyond the uneven
4 collection of recyclable materials to stable resource recovery and
5 reuse. Because of existing local collection programs, significant
6 quantities of recycled resources such as the following are today
7 available for purchase: fine grades of paper, high-quality paper
8 products, plastics, retreaded automobile tires, rerefined lubricating
9 oil, reused automotive parts, reclaimed solvents, recycled asphalt,
10 recycled concrete, carpet or geotextiles composed of recycled
11 plastics, compost and co-compost products, and steel products.

12 (f) In making these findings, the Legislature declares that the
13 policy and intent of this chapter is to set an example for the state
14 and nation to encourage the purchase of products utilizing recycled
15 resources.

16 (g) It is the intent of the Legislature, whenever economically
17 feasible and as markets allow, to continually expand the policies
18 of the state to utilize recycled resources in the daily operations of
19 the state. This includes, but is not limited to, the procurement and
20 purchase of recycled materials, the use of recycled resources in
21 the performance of a service or project for the state, and the
22 purchase of equipment used for the collection and sale of waste
23 materials generated by the state.

24 (h) It is the intent of the Legislature that the Department of
25 General Services work with all state departments, agencies, the
26 Legislature, ~~the California Integrated Waste Management Board,~~
27 *the Department of Resources Recycling and Recovery*, and the
28 Department of Conservation to draft, establish, and implement
29 policies that ensure the procurement and use of recycled resources.

30 (i) It is also the intent of the Legislature to encourage local
31 public agencies and private companies to adopt policies to
32 maximize the use of recycled resources.

33 *SEC. 32. Section 12164.5 of the Public Contract Code is*
34 *amended to read:*

35 12164.5. (a) It is the intent of the Legislature that for the
36 current state waste paper collection program, ~~the California~~
37 ~~Integrated Waste Management Board~~ *Department of Resources*
38 *Recycling and Recovery* shall provide participating locations with
39 public information awareness and training to state and legislative
40 employees. Additionally, ~~the California Integrated Waste~~

1 ~~Management Board~~ *Department of Resources Recycling and*
2 *Recovery* shall provide training for personnel, including but not
3 limited to, state and buildings and grounds personnel, responsible
4 for the collection of waste materials. This training shall include,
5 but is not limited to, educating and training the personnel
6 concerning the separation and collection of recyclable materials.

7 (b) It is also the intent of the Legislature that the ~~California~~
8 ~~Integrated Waste Management Board~~ *Department of Resources*
9 *Recycling and Recovery* continue the current state waste paper
10 collection program and use this program as a model to develop a
11 plan for other waste materials generated by state and legislative
12 employees.

13 (c) It is also the intent of the Legislature that the department, in
14 consultation with the ~~California Integrated Waste Management~~
15 ~~Board~~ *Department of Resources Recycling and Recovery*, shall
16 submit a new recycling plan, which includes but is not limited to,
17 the collection and sale of waste materials generated by state and
18 legislative employees. This plan shall be submitted to the
19 appropriate legislative policy committees on or before August 31,
20 1990. The plan may be phased in utilizing those office facilities
21 and collecting those waste materials most conducive to operation
22 of a source separation program, but shall be fully implemented by
23 June 1, 1991.

24 SEC. 33. *Section 12165 of the Public Contract Code is amended*
25 *to read:*

26 12165. (a) After implementing a recycling plan pursuant to
27 subdivision (c) of Section 12164.5, the ~~California Integrated Waste~~
28 ~~Management Board~~ *Department of Resources Recycling and*
29 *Recovery* shall establish, implement, and maintain a recycling plan
30 for the Legislature, which may include all legislative offices and
31 individual members' district offices; all state offices whether in
32 state-owned buildings or leased facilities in Sacramento, Los
33 Angeles, and San Francisco Counties; and in any other areas that
34 the ~~board~~ *Department of Resources Recycling and Recovery*
35 determines to be feasible. The plan shall include the provisions
36 for the recycling of office paper, corrugated cardboard, newsprint,
37 beverage containers (as defined in Section 14503 of the Public
38 Resources Code), waste oil, and any other material at the discretion
39 of the ~~board~~ *Department of Resources Recycling and Recovery*.

(b) The collection program for each product and each location shall be reevaluated by the ~~board~~ *California Integrated Waste Management Board* on or before January 1, 1994. Subsequently, the ~~board~~ *Department of Resources Recycling and Recovery*, upon the determination that inclusion of any particular material type would result in a net revenue loss to the state, shall have the discretion to exclude that material from the program, and shall report its conclusions and recommendations to the Legislature. In determining the net revenue loss for the collection of a specified waste material, the ~~board~~ *Department of Resources Recycling and Recovery* shall include the avoided cost to dispose of the waste material. The plan shall provide either for the collection and sale of materials to private brokers, recycling plants, or nonprofit organizations, or the operation of these entities by the state, or a combination thereof. The plan shall be implemented at the earliest possible date.

(c) The ~~board~~ *Department of Resources Recycling and Recovery* shall provide participating locations with public awareness information and training to state and legislative employees, including, but not limited to, the proper separation and disposal of recyclable resources. Additionally, the ~~board~~ *Department of Resources Recycling and Recovery* shall provide training for personnel, including, but not limited to, state buildings and grounds personnel, responsible for the collection of waste materials. This training shall include, but is not limited to, educating and training the personnel concerning the separation and collection of recyclable materials.

(d) No individual, group of individuals, state office, agency, or its employees shall establish a similar collection program or enter into agreement for a similar program unless approved by the ~~board~~ *Department of Resources Recycling and Recovery*.

SEC. 34. *Section 12166 of the Public Contract Code is amended to read:*

12166. The ~~California Integrated Waste Management Board~~ *Department of Resources Recycling and Recovery* may contract as necessary for the recycling of products which have been returned pursuant to Section 12165.

SEC. 35. *Section 12167 of the Public Contract Code is amended to read:*

1 12167. Revenues received from this plan or any other activity
2 involving the collection and sale of recyclable materials in state
3 and legislative offices located in state-owned and state-leased
4 buildings, such as the sale of waste materials through recycling
5 programs operated by the ~~California Integrated Waste Management~~
6 ~~Board~~ *Department of Resources Recycling and Recovery* or in
7 agreement with the ~~board~~ *Department of Resources Recycling and*
8 *Recovery*, shall be deposited in the Integrated Waste Management
9 Account in the Integrated Waste Management Fund and are hereby
10 continuously appropriated to the ~~board~~ *Department of Resources*
11 *Recycling and Recovery*, without regard to fiscal years, until June
12 30, 1994, for the purposes of offsetting recycling program costs.
13 On and after July 1, 1994, the funds in the Integrated Waste
14 Management Account may be expended by the ~~board~~ *Department*
15 *of Resources Recycling and Recovery*, only upon appropriation by
16 the Legislature, for the purpose of offsetting recycling program
17 costs.

18 *SEC. 36. Section 12167.1 of the Public Contract Code is*
19 *amended to read:*

20 12167.1. Notwithstanding Section 12167, upon approval by
21 the ~~California Integrated Waste Management Board~~ *Department*
22 *of Resources Recycling and Recovery*, revenues derived from the
23 sale of recyclable materials by state agencies and institutions that
24 do not exceed two thousand dollars (\$2,000) annually are hereby
25 continuously appropriated, without regard to fiscal years, for
26 expenditure by those state agencies and institutions for the purposes
27 of offsetting recycling program costs. Revenues that exceed two
28 thousand dollars (\$2,000) annually shall be available for
29 expenditure by those state agencies and institutions when
30 appropriated by the Legislature. Information on the quantities of
31 recyclable materials collected for recycling shall be provided to
32 the ~~board~~ *Department of Resources Recycling and Recovery* on
33 an annual basis according to a schedule determined by the ~~board~~
34 *Department of Resources Recycling and Recovery* and participating
35 agencies.

36 *SEC. 37. Section 12200 of the Public Contract Code is amended*
37 *to read:*

38 12200. For the purpose of this article, the following definitions
39 shall apply:

1 ~~(a) “Board” means the California Integrated Waste Management~~
2 ~~Board, as defined pursuant to Section 40110 of the Public~~
3 ~~Resources Code.~~

4 ~~(b)~~

5 (a) “Business” includes bidders, contractors, and other interested
6 parties that provide services to, or sell products to, the state.

7 ~~(c)~~

8 (b) “Department” means the Department of General Services.

9 ~~(d)~~

10 (c) “Director” means the Director of General Services.

11 ~~(e)~~

12 (d) “Postconsumer material” means a finished material that
13 would have been disposed of as a solid waste, having completed
14 its life cycle as a consumer item, and does not include
15 manufacturing wastes.

16 ~~(f)~~

17 (e) “Product categories” include paper products, printing, and
18 writing papers, compost, cocompost, or mulch, glass, oil, plastic,
19 paint, tires, tire-derived products, antifreeze, and metal.

20 ~~(g)~~

21 (f) “Purchase” means any contractual agreement that state
22 agencies use to obtain goods or materials.

23 ~~(h)~~

24 (g) “Recycled products” mean goods or materials that meet the
25 requirements identified in Section 12209, including any good or
26 material that has been reused or refurbished without substantial
27 alteration of its original form.

28 ~~(i)~~

29 (h) “Reportable purchase” means the purchase of any goods or
30 materials, with recycled content or not, that may be reported or
31 categorized or classified within one of the product categories
32 identified in Section 12207.

33 ~~(j)~~

34 (i) “Reportable recycled product purchase” means the purchase
35 of any goods or materials that meet the requirements identified in
36 Section 12209, that may be reported or categorized or classified
37 within one of the product categories identified in Section 12207,
38 including any good or material that has been reused or refurbished
39 without substantial alteration of its original form.

40 ~~(k)~~

1 (j) “SABRC” means the State Agency Buy Recycled Campaign.

2 ~~(h)~~

3 (k) “Secondary material” means fragments of finished products
4 or finished products of a manufacturing process, that has converted
5 a resource into a commodity of real economic value, but does not
6 include excess virgin resources of the manufacturing process, such
7 as fibers recovered from wastewater, trimmings of paper machine
8 rolls, mill broke, plastic, or metal trimmings, or shavings, or other
9 residue from a manufacturing process. Secondary material does
10 not include postconsumer material, so that the secondary material
11 plus the postconsumer material plus the virgin material adds up to
12 100 percent of the product.

13 ~~(m)~~

14 (l) “State agency” means each entity identified in Section 11000
15 of the Government Code, and includes the California State
16 University.

17 *SEC. 38. Section 12207 of the Public Contract Code is amended*
18 *to read:*

19 12207. This article applies to the purchase of goods and
20 materials from the following product categories:

21 (a) Paper products, including, but not limited to, paper janitorial
22 supplies, cartons, wrapping, packaging, file folders, and hanging
23 files, building insulation and panels, corrugated boxes, tissue, and
24 toweling.

25 (b) Printing and writing papers including, but not limited to,
26 copy, xerographic, watermark, cotton fiber, offset, forms, computer
27 printout paper, white wove envelopes, manila envelopes, book
28 paper, note pads, writing tablets, newsprint, and other uncoated
29 writing papers, posters, index cards, calendars, brochures, reports,
30 magazines, and publications.

31 (c) Mulch, compost, and cocompost products including soil
32 amendments, erosion controls, soil toppings, ground covers, weed
33 suppressants, and organic materials used for water conservation.

34 (1) “Compost” means a product that meets the following
35 requirements:

36 (A) It results from the controlled biological decomposition of
37 organic materials, including, but not limited to, yard trimmings
38 and wood byproducts that are separated from the municipal solid
39 waste stream at the source of generation or at a centralized facility,
40 or other source of organic materials.

1 (B) It is produced by a public or private supplier that is in
2 compliance with the ~~board's~~ *Department of Resources Recycling*
3 *and Recovery's* composting operations regulatory requirements.

4 (2) "Cocompost" means a product that meets the following
5 requirements:

6 (A) It results from the controlled biological decomposition of
7 a blend of organic materials, including, but not limited to, yard
8 trimmings and wood byproducts that are separated from the
9 municipal solid waste stream at the source of generation or at a
10 centralized facility, and also including, but not limited to, biosolids
11 or other comparable substitutes such as livestock, horse, or other
12 animal manure, food residues, or fish processing byproducts.

13 (B) It is produced by a public or private supplier that is in
14 compliance with the ~~board's~~ *Department of Resources Recycling*
15 *and Recovery's* composting operations regulatory requirements.

16 (3) "Mulch" means a product that meets the following
17 requirements:

18 (A) It results from the mechanical breakdown (chipping and
19 grinding) of materials, including, but not limited to, yard trimmings
20 and wood byproducts that are separated from the municipal solid
21 waste stream at the source of generation or at a centralized facility.

22 (B) It is produced by a public or private supplier that is in
23 compliance with the ~~board's~~ *Department of Resources Recycling*
24 *and Recovery's* composting operations regulatory requirements.

25 (d) Glass products including, but not limited to, windows, test
26 tubes, beakers, laboratory or hospital supplies, fiberglass
27 (insulation), reflective beads, tiles, construction blocks, desktop
28 accessories, flat glass sheets, loose-grain abrasives, deburring
29 media, liquid filter media, and containers.

30 (e) Lubricating oils including, but not limited to, any oil intended
31 for use in a crankcase, transmission, engine, power steering,
32 gearbox, differential chainsaw, transformer dielectric fluid, cutting,
33 hydraulic, industrial, or automobile, bus, truck, vessel, plane, train,
34 heavy equipment, or machinery powered by an internal combustion
35 engine.

36 (f) (1) Plastic products including, but not limited to, printer or
37 duplication cartridges, diskette, carpet, office products, plastic
38 lumber, buckets, wastebaskets, containers, benches, tables, fencing,
39 clothing, mats, packaging, signs, posts, binders, sheet, buckets,
40 building products, garden hose, and trays.

(2) For purposes of this subdivision, “printer or duplication cartridges” has the same meaning as described in paragraph (2) of subdivision (f) of Section 12209.

(g) Paint, including, but not limited to, water-based paint, graffiti abatement, interior and exterior, and maintenance.

(h) Antifreeze, including recycled antifreeze, and antifreeze containing a bittering agent or made from polypropylene or other similar nontoxic substance.

(i) Tires including, but not limited to, truck and bus tires, and those used on fleet vehicles and passenger cars.

(j) Tire-derived products including, but not limited to, flooring, mats, wheelchair ramps, playground cover, parking bumpers, bullet traps, hoses, bumpers, truck bedliners, pads, walkways, tree ties, road surfacing, wheel chocks, rollers, traffic control products, mudflaps, and posts.

(k) Metal including, but not limited to, staplers, paper clips, steel furniture, desks, pedestals, scissors, jacks, rebar, pipe, plumbing fixtures, chairs, ladders, file cabinets, shelving, containers, lockers, sheet metal, girders, building and construction products, bridges, braces, nails, and screws.

SEC. 39. Section 12211 of the Public Contract Code is amended to read:

12211. (a) Each state agency shall report annually to the ~~board~~ *Department of Resources Recycling and Recovery* their progress in meeting the recycled product purchasing requirements using the SABRC report format provided by the ~~board~~ *Department of Resources Recycling and Recovery*.

(b) On or before October 31 of each year, the department shall provide to the ~~board~~ *Department of Resources Recycling and Recovery* the following information:

(1) A list, by category, of individual reportable recycled products, materials, goods, and supplies that were available for purchase by state agencies from a statewide-use contract, agreement, or schedule during the previous fiscal year.

(2) A list, by category, of all reportable products, materials, goods, and supplies that were available for purchase by state agencies from a statewide-use contract, agreement, or schedule, including contract, agreement, or schedule tracking numbers, during the previous fiscal year.

1 (c) The ~~board~~ *Department of Resources Recycling and Recovery*
2 shall annually provide an agency-specific report to the Legislature
3 identifying all state agency SABRC reporting figures.

4 (d) Every three years, the ~~board~~ *Department of Resources*
5 *Recycling and Recovery* shall provide, as part of the report
6 described in subdivision (c), recommendations to the Legislature
7 for changes necessary to increase the purchase of recycled content
8 products, materials, goods, and supplies and improve SABRC
9 program efficiency.

10 *SEC. 40. Section 12215 of the Public Contract Code is amended*
11 *to read:*

12 12215. Each state agency may, at the discretion of the
13 individual agency director or his or her designee, print a statement
14 on recycled products selected by the agency director. This
15 statement shall be determined by the department, in consultation
16 with the ~~board~~ *Department of Resources Recycling and Recovery*,
17 and shall be similar to the following: “Contains at least ____
18 percent postconsumer material.”

19 *SEC. 41. Section 12217 of the Public Contract Code is amended*
20 *to read:*

21 12217. (a) If at any time a requirement has not been met, the
22 department, in consultation with the ~~board~~ *Department of*
23 *Resources Recycling and Recovery*, shall review purchasing
24 policies and shall make recommendations for immediate revisions
25 to ensure that the recycled product purchasing requirements are
26 met.

27 (b) In determining purchasing specifications, with the exception
28 of any specifications that have been established to preserve the
29 public health and safety, all state purchasing specifications shall
30 be established in a manner that results in the maximum state
31 purchase of recycled products.

32 (c) If a recycled product, as defined in subdivision (h) of Section
33 12200, costs more than the same product made with virgin material,
34 the state agency shall, if feasible, purchase fewer of those more
35 costly products or apply the cost savings, if any, gained from
36 buying other recycled products towards the purchase of those more
37 costly products to meet the solid waste diversion goals of Section
38 41780 of the *Public Resources Code*.

39 (d) Each state agency shall establish purchasing practices that
40 ensure the purchase of goods and materials that may be recycled

1 or reused. Each state agency shall continue activities for the
2 collection, separation, and recycling of recyclable materials and
3 may appoint a recycling coordinator to assist in implementing this
4 section.

5 (e) To assist the state in meeting the requirements of this article,
6 each state agency, and the department, in consultation with the
7 ~~board~~ *Department of Resources Recycling and Recovery*, may also
8 establish recycled product-only bids, cooperative purchasing
9 arrangements, or other mechanisms to meet the requirements for
10 recycled products and to encourage the maximum state purchase
11 of recycled products.

12 (f) The department, in consultation with the ~~board~~ *Department*
13 *of Resources Recycling and Recovery*, shall review and revise the
14 purchasing specifications used by state agencies in order to
15 eliminate restrictive specifications and discrimination against the
16 purchase of recycled products and to ensure that they are drafted
17 in a manner that results in the maximum state purchase of recycled
18 products. All contract provisions impeding the consideration of
19 recycled products shall be deleted in favor of performance
20 standards.

21 (g) Any state agency that is required to submit an SABRC report
22 to the ~~board~~ *Department of Resources Recycling and Recovery*,
23 pursuant to Section 12211, is subject to a review conducted by the
24 ~~board~~ *Department of Resources Recycling and Recovery* or its
25 designee.

26 *SEC. 42. Section 12301 of the Public Contract Code is amended*
27 *to read:*

28 12301. The following definitions govern the interpretation of
29 this chapter:

30 (a) "Department" means the Department of General Services.

31 ~~(b) "Board" means the California Integrated Waste Management~~
32 ~~Board, as defined pursuant to Section 40110 of the Public~~
33 ~~Resources Code.~~

34 (c)

35 (b) "Recycled paper product" means all paper and woodpulp
36 products containing postconsumer and secondary materials.
37 "Postconsumer material" means a finished material that would
38 normally be disposed of as a solid waste, having completed its life
39 cycle as a consumer item. "Secondary material" means fragments
40 of finished products or finished products of a manufacturing

1 process, which has converted a virgin resource into a commodity
2 of real economic value, and includes postconsumer material, but
3 does not include fibrous waste generated during the manufacturing
4 process such as fibers recovered from wastewater or trimmings of
5 paper machine rolls (mill broke), wood slabs, chips, sawdust, or
6 other wood residue from a manufacturing process. “Recycled paper
7 product” means a paper product with not less than 50 percent, by
8 fiber weight, consisting of secondary and postconsumer material
9 with not less than 10 percent of fiber weight consisting of
10 postconsumer material.

11 For high speed copier paper, offset paper, forms bond, computer
12 printout paper, carbonless paper, file folders, white wove
13 envelopes, and for other uncoated printing and writing papers,
14 such as writing and office paper, book paper, cotton fiber paper
15 containing 25 to 75 percent cotton fiber, and cover stock, the
16 minimum content standard shall be no less than 20 percent of fiber
17 weight of postconsumer materials beginning December 31, 1994.
18 The minimum content standard shall be increased to 30 percent
19 of fiber weight of postconsumer materials beginning on December
20 31, 1998.

21 ~~(d)~~

22 (c) (1) Except as provided in paragraph (2), “recycled product”
23 means all materials, goods, and supplies, excluding paper products,
24 no less than 50 percent of the total weight of which consists of
25 secondary and postconsumer material with not less than 10 percent
26 of its total weight consisting of postconsumer material. A recycled
27 product shall include any product that could have been disposed
28 of as solid waste having completed its life cycle as a consumer
29 item, but otherwise is refurbished for reuse without substantial
30 alteration of its form. “Postconsumer material” means a finished
31 material that would have been disposed of as a solid waste, having
32 completed its life cycle as a consumer item, and does not include
33 manufacturing wastes. “Secondary material” means fragments of
34 finished products or finished products of a manufacturing process,
35 which has converted a resource into a commodity of real economic
36 value, and includes postconsumer material, but does not include
37 excess virgin resources of the manufacturing process.

38 (2) “Recycled product” also means other flat rolled steel
39 products no less than 25 percent of the total weight of which
40 consists of secondary and postconsumer material, with not less

1 than 10 percent of total weight consisting of postconsumer material.
2 Products made with flat rolled steel meeting these content
3 percentages include, but are not limited to, automobiles, cans,
4 appliances, and office furniture and supplies.

5 *SEC. 43. Section 12310 of the Public Contract Code is amended*
6 *to read:*

7 12310. (a) On and after January 1, 1997, at least 50 percent
8 of the total dollar amount of paper products purchased or procured
9 by the Legislature shall be purchased as a recycled paper product,
10 as defined in Section 12301. In addition, at least 25 percent of the
11 total fine writing and printing paper purchased by the Legislature
12 shall be recycled paper products, as defined in Section 12301.

13 If at any time the requirement for recycled products has not been
14 met, the Legislature and the department, in consultation with the
15 ~~board~~ *Department of Resources Recycling and Recovery*, shall
16 review the procurement policies of the Legislature and shall make
17 recommendations for immediate revisions to ensure that each
18 requirement is met. Revisions include, but are not limited to, raising
19 the purchasing preference and altering the requirements for each
20 or all recycled products. The department, in consultation with the
21 ~~board~~ *Department of Resources Recycling and Recovery*, shall
22 present its conclusions and recommendations on these revisions
23 of procurement policies to the Legislature in the department's
24 biennial report pursuant to Section 12225.

25 (b) When contracting with the Legislature for the sale of
26 recycled paper products, the contractor shall certify in writing to
27 the contracting officer or his or her representative, that the recycled
28 paper products offered contain the minimum percentage of waste
29 materials required by subdivision (c) of Section 12301. The
30 contractor shall specify the minimum, if not the exact, percentage
31 of recycled product in the paper product, including both the
32 secondary and postconsumer material content. This certification
33 shall be furnished under penalty of perjury.

34 (c) The Legislature may, in consultation with the ~~board~~
35 *Department of Resources Recycling and Recovery*, print a symbol
36 on paper products selected by the Legislature. The symbol shall
37 be similar to the following:

38 Printed on recycled paper. This symbol shall be printed only on
39 paper products meeting the definition of recycled paper products
40 in Section 12301.

1 (d) This section shall not prevent the Legislature from using
2 existing stocks of paper products.

3 *SEC. 44. Section 12320 of the Public Contract Code is amended*
4 *to read:*

5 12320. (a) The Legislature shall require contractors to certify
6 in writing to the contracting officer, or his or her representative,
7 whether the materials, goods, or supplies offered contain the
8 minimum percentage of recycled product required by subdivision
9 (d) of Section 12301. The contractor shall specify the minimum,
10 if not exact, percentage of recycled product in the product, both
11 the secondary and postconsumer material content. This certification
12 shall be furnished under penalty of perjury.

13 (b) The Legislature, in consultation with the department and
14 ~~the board~~ *Department of Resources Recycling and Recovery*, shall
15 review and revise the procurement specifications used by the
16 Legislature in order to eliminate discrimination against the
17 procurement or purchase of recycled products whenever quality
18 of a recycled product is reasonably equal to the same product
19 manufactured with virgin resources. In determining procurement
20 specifications, with the exception of any specifications that have
21 been established to preserve the public health and safety, all
22 legislative procurement and purchasing specifications shall be
23 established in a manner that results in the maximum legislative
24 procurement and purchase of recycled products.

25 (c) The Legislature, in consultation with ~~the board~~ *Department*
26 *of Resources Recycling and Recovery*, shall establish purchasing
27 practices that ensure, to the maximum extent feasible, the purchase
28 of materials, goods, and supplies that may be recycled or reused
29 when discarded.

30 (d) The Legislature shall give purchase preference to recycled
31 products when all of the following apply:

32 (1) The product meets applicable standards.

33 (2) The product can be substituted for a comparable nonrecycled
34 product.

35 (3) The product costs no more than a comparable nonrecycled
36 product.

37 (e) To encourage the use of postconsumer waste, the
38 Legislature's specifications shall require recycled product contracts
39 to be awarded to the bidder whose product contains the greater
40 percentage of postconsumer material if the fitness and quality and

1 price meet the requirements in subdivision (d) of Section 12301
2 and Section 12310.

3 (f) The Legislature shall set the following goals for purchases
4 made by the Legislature or any individual or group of individuals
5 purchasing on behalf of the Legislature:

6 (1) By January 1, 1991, at least 10 percent of legislative
7 purchases are of recycled products.

8 (2) By January 1, 1993, at least 20 percent of legislative
9 purchases are of recycled products.

10 (3) By January 1, 1995, at least 40 percent of legislative
11 purchases are of recycled products.

12 (4) The goals specified in this subdivision shall be applied to
13 the purchase by the Legislature of products described in
14 subdivisions (b), (c), (d), (e), (f), and (g) of Section 12305 and
15 shall be applied to the total dollar amount of the combined
16 purchases of those products.

17 Each specified goal shall be met for each product listed pursuant
18 to Section 12305. If at any time a goal has not been met, the
19 Legislature and the department, in consultation with the ~~board~~
20 *Department of Resources Recycling and Recovery*, shall review
21 procurement policies of the Legislature and shall make
22 recommendations for immediate revisions to ensure that each goal
23 is met. Revisions include, but are not limited to, raising the
24 purchasing preference and altering the goals for all or each recycled
25 product. The department, in consultation with the ~~board~~
26 *Department of Resources Recycling and Recovery*, shall present
27 its conclusions and recommendations on these revisions of
28 procurement policies to the Legislature in the department's annual
29 report pursuant to Section 12225.

30 *SEC. 45. Section 40051 of the Public Resources Code is*
31 *amended to read:*

32 40051. In implementing this division, the ~~board~~ *Department*
33 *of Resources Recycling and Recovery, the Department of Toxics*
34 *and Waste Management*, and local agencies shall do both of the
35 following:

36 (a) Promote the following waste management practices in order
37 of priority:

38 (1) Source reduction.

39 (2) Recycling and composting.

1 (3) Environmentally safe transformation and environmentally
2 safe land disposal, at the discretion of the city or county.

3 (b) Maximize the use of all feasible source reduction, recycling,
4 and composting options in order to reduce the amount of solid
5 waste that must be disposed of by transformation and land disposal.
6 For wastes that cannot feasibly be reduced at their source, recycled,
7 or composted, the local agency may use environmentally safe
8 transformation or environmentally safe land disposal, or both of
9 those practices.

10 *SEC. 46. Section 40054 of the Public Resources Code is*
11 *amended to read:*

12 40054. This division, or any rules or regulations adopted
13 pursuant thereto, is not a limitation on the power of the Attorney
14 General, on the request of the ~~board~~ *Department of Resources*
15 *Recycling and Recovery, the Department of Toxics and Waste*
16 *Management*, the state water board, a regional water board, or
17 upon his or her own motion, to bring an action in the name of the
18 people of the State of California to enjoin any health hazard,
19 pollution, or nuisance.

20 *SEC. 47. Section 40059.1 of the Public Resources Code is*
21 *amended to read:*

22 40059.1. (a) The Legislature hereby finds and declares both
23 of the following:

24 (1) In 1989, the Legislature enacted this division as the
25 California Integrated Waste Management Act of 1989. One of the
26 key provisions of this division is that each local agency has the
27 responsibility for diverting 50 percent of all solid waste generated
28 within the local agency by January 1, 2000.

29 (2) The public policy objective of the Legislature in enacting
30 this section is to ensure that those local agencies that require an
31 indemnity obligation retain their responsibility for implementing
32 the diversion requirements of this division.

33 (b) For the purposes of this section, the following terms have
34 the following meanings:

35 (1) "Indemnity obligation" means any indemnity obligation
36 directly or indirectly related to the failure of a local agency to meet
37 the solid waste diversion requirements imposed by Chapter 6
38 (commencing with Section 41780) of Part 2, that is expressly
39 assumed by, or imposed upon, the solid waste enterprise, whether

1 pursuant to ordinance, contract, franchise, license, permit, or other
2 entitlement or right, for the benefit of the local agency.

3 (2) “Local agency” means any county, city, city and county,
4 district, regional agency as defined in Section 40181, or other local
5 government agency.

6 (c) Any provision, term, condition, or requirement contained in
7 any ordinance, contract, franchise, license, permit, or other
8 entitlement or right adopted, entered into, issued, or granted, as
9 the case may be, by a local agency for solid waste collection and
10 handling, including the recycling, processing, or composting of
11 solid waste, or in any request for bids or proposals in connection
12 with any such contract or franchise, that authorizes or requires the
13 imposition of an indemnity obligation, shall, notwithstanding any
14 such provision, term, condition, or requirement, be subject to all
15 of the following restrictions:

16 (1) An indemnity obligation shall not be enforceable if the ~~board~~
17 *Department of Resources Recycling and Recovery or the*
18 *Department of Toxics and Waste Management* imposed penalty is
19 based solely upon the failure of the local agency to establish and
20 maintain a source reduction and recycling element pursuant to
21 Chapter 2 (commencing with Section 41000) of Part 2, Chapter 3
22 (commencing with Section 41300) of Part 2, or Section 41750.1,
23 as the case may be.

24 (2) Any ~~board~~ *Department of Resources Recycling and Recovery*
25 *or Department of Toxics and Waste Management* imposed penalty
26 based upon a local agency’s failure to meet the solid waste
27 diversion requirements imposed by Chapter 6 (commencing with
28 Section 41780) of Part 2, resulting in whole or in part from the
29 solid waste enterprise’s breach of contract or noncompliance with
30 any other authorization, shall be apportioned in accordance with
31 the percentage of fault of the local agency and the solid waste
32 enterprise.

33 (3) For purposes of this section, a solid waste enterprise is not
34 liable for the indemnity obligation to the extent that the solid waste
35 enterprise’s breach or noncompliance resulted from the action or
36 failure to act of the local agency.

37 (4) No payment required or imposed pursuant to an indemnity
38 obligation, whether required or imposed by ordinance, contract,
39 franchise, license, permit, or other entitlement or right, may exceed
40 that portion of any penalty assessed by the ~~board~~ *Department of*

Resources Recycling and Recovery or the Department of Toxics and Waste Management against the local agency that was caused by the solid waste enterprise's breach or noncompliance of an express obligation or requirement.

(5) No indemnity obligation shall be enforceable against a solid waste enterprise until the local agency has affirmatively sought, in good faith, all administrative relief available pursuant to Chapter 6 (commencing with Section 41780) and Chapter 7 (commencing with Section 41800) of Part 2, unless the local agency demonstrates good cause, based on substantial evidence in the record, for not pursuing that administrative relief. The solid waste enterprise shall cooperate, in good faith, with the local agency seeking that administrative relief and shall provide in writing to the local agency all known defenses to the imposition of penalties.

(d) Nothing in this section shall be construed to preclude either party from seeking any other remedy under law or equity.

(e) The provisions of this section are not subject to waiver, and any attempted waiver shall be null and void as against public policy.

(f) This section is not intended to do any of the following:

(1) Add to or expand the authority of local agencies to determine aspects of solid waste collection and handling pursuant to Section 40059.

(2) Alter the authority of business entities to collect or process materials that are not solid waste.

(3) Affect any contract right existing on the effective date of this section.

SEC. 48. *Section 40062 of the Public Resources Code is amended to read:*

40062. (a) Upon the request of any person furnishing any report, notice, application, plan, or other document required by this division, including any research or survey information requested by the ~~board~~ *Department of Resources Recycling and Recovery or the Department of Toxics and Waste Management* for the purpose of implementing its programs, neither the ~~board~~ *Department of Resources Recycling and Recovery, the Department of Toxics and Waste Management*, nor an enforcement agency, in accordance with subdivisions (c) and (d), shall make available for inspection by the public any portion of the report, notice, application, plan, or other document that contains a trade secret,

1 as defined in subdivision (d) of Section 3426.1 of the Civil Code,
2 that has been identified pursuant to subdivision (b).

3 (b) Any person furnishing information, as described in
4 subdivision (a), to the ~~board~~ *Department of Resources Recycling*
5 *and Recovery, the Department of Toxics and Waste Management,*
6 or an enforcement agency pursuant to this division shall, at the
7 time of submission, identify all information which the person
8 believes is a trade secret. Any information not identified by the
9 person as a trade secret shall be made available to the public, unless
10 exempted from disclosure by another provision of law.

11 (c) (1) With regard to information that has been identified as
12 a trade secret pursuant to subdivision (b), the ~~board~~ *Department*
13 *of Resources Recycling and Recovery or the Department of Toxics*
14 *and Waste Management,* upon its own initiative, or upon receipt
15 of a request for public information pursuant to Chapter 3.5
16 (commencing with Section 6250) of Division 7 of Title 1 of the
17 Government Code, shall determine whether any or all of the
18 information has been properly identified as a trade secret. If the
19 ~~board~~ *Department of Resources Recycling and Recovery or the*
20 *Department of Toxics and Waste Management* determines that the
21 information is not a trade secret, the ~~board~~ *Department of*
22 *Resources Recycling and Recovery or the Department of Toxics*
23 *and Waste Management* shall notify the person who furnished the
24 information by certified mail.

25 (2) The person who furnished the information shall have 30
26 days from the date of receipt of the notice required by paragraph
27 (1) to provide the ~~board~~ *Department of Resources Recycling and*
28 *Recovery or the Department of Toxics and Waste Management*
29 with a complete justification and statement of the grounds on which
30 the trade secret privilege is claimed. The justification and statement
31 shall be submitted to the ~~board~~ *Department of Resources Recycling*
32 *and Recovery or the Department of Toxics and Waste Management*
33 by certified mail.

34 (3) The ~~board~~ *Department of Resources Recycling and Recovery*
35 *or the Department of Toxics and Waste Management* shall
36 determine whether the information is protected as a trade secret
37 within 15 days from the date of receipt of the justification and
38 statement or, if no justification and statement is filed, within 45
39 days from the date of the notice required by paragraph (1). The
40 ~~board~~ *Department of Resources Recycling and Recovery or the*

1 *Department of Toxics and Waste Management* shall notify the
2 person who furnished the information and any party who has
3 requested the information pursuant to Chapter 3.5 (commencing
4 with Section 6250) of Division 7 of Title 1 of the Government
5 Code of that determination by certified mail. If the ~~the-board~~
6 *Department of Resources Recycling and Recovery or the*
7 *Department of Toxics and Waste Management* has determined that
8 the information is not protected as a trade secret, this final notice
9 shall also specify a date, not sooner than 15 days from the date of
10 the date of mailing of the final notice, when the information shall
11 be available to the public.

12 (d) Except as provided in subdivision (c), the ~~the-board~~ *Department*
13 *of Resources Recycling and Recovery, the Department of Toxics*
14 *and Waste Management*, or an enforcement agency may release
15 information submitted and designated as a trade secret only to the
16 following public agencies under the following conditions:

17 (1) To other public agencies in connection with the
18 responsibilities of the ~~the-board~~ *Department of Resources Recycling*
19 *and Recovery, the Department of Toxics and Waste Management*,
20 or an enforcement agency under this division or for use in making
21 reports.

22 (2) To the state or any state agency in judicial review for
23 enforcement proceedings involving the person furnishing the
24 information.

25 (e) For the purpose of implementing this section, the disclosure
26 of information shall be consistent with Chapter 3.5 (commencing
27 with Section 6250) of Division 7 of Title 1 of the Government
28 Code.

29 *SEC. 49. Section 40063 of the Public Resources Code is*
30 *amended to read:*

31 40063. At the request of a county with a population of less
32 than 250,000, the ~~the-board~~ *Department of Resources Recycling and*
33 *Recovery, the Department of Toxics and Waste Management*, and
34 the state water board may meet with the county to prioritize,
35 through development and joint adoption of a five-year plan, state
36 environmental concerns with regard to solid waste management
37 in relation to the fiscal and staffing constraints on the county.

38 *SEC. 50. Section 40106 of the Public Resources Code is*
39 *amended to read:*

1 40106. (a) “Biomass conversion” means the controlled
2 combustion, when separated from other solid waste and used for
3 producing electricity or heat, of the following materials:

- 4 (1) Agricultural crop residues.
- 5 (2) Bark, lawn, yard, and garden clippings.
- 6 (3) Leaves, silvicultural residue, and tree and brush pruning.
- 7 (4) Wood, wood chips, and wood waste.
- 8 (5) Nonrecyclable pulp or nonrecyclable paper materials.

9 (b) “Biomass conversion” does not include the controlled
10 combustion of recyclable pulp or recyclable paper materials, or
11 materials that contain sewage sludge, industrial sludge, medical
12 waste, hazardous waste, or either high-level or low-level
13 radioactive waste.

14 (c) For purposes of this section, “nonrecyclable pulp or
15 nonrecyclable paper materials” means either of the following, as
16 determined by the ~~board~~ *Department of Resources Recycling and*
17 *Recovery*:

18 (1) Paper products or fibrous materials that cannot be
19 technically, feasibly, or legally recycled because of the manner in
20 which the product or material has been manufactured, treated,
21 coated, or constructed.

22 (2) Paper products or fibrous materials that have become soiled
23 or contaminated and as a result cannot be technically, feasibly, or
24 legally recycled.

25 *SEC. 51. Section 40117 of the Public Resources Code is*
26 *amended to read:*

27 40117. “Gasification” means a technology that uses a
28 noncombustion thermal process to convert solid waste to a clean
29 burning fuel for the purpose of generating electricity, and that, at
30 minimum, meets all of the following criteria:

31 (a) The technology does not use air or oxygen in the conversion
32 process, except ambient air to maintain temperature control.

33 (b) The technology produces no discharges of air contaminants
34 or emissions, including greenhouse gases, as defined in subdivision
35 (g) of Section 38505 of the Health and Safety Code.

36 (c) The technology produces no discharges to surface or
37 groundwaters of the state.

38 (d) The technology produces no hazardous waste.

39 (e) To the maximum extent feasible, the technology removes
40 all recyclable materials and marketable green waste compostable

1 materials from the solid waste stream prior to the conversion
2 process and the owner or operator of the facility certifies that those
3 materials will be recycled or composted.

4 (f) The facility where the technology is used is in compliance
5 with all applicable laws, regulations, and ordinances.

6 (g) The facility certifies to the ~~board~~ *Department of Resources*
7 *Recycling and Recovery or the Department of Toxics and Waste*
8 *Management* that any local agency sending solid waste to the
9 facility is in compliance with this division and has reduced,
10 recycled, or composted solid waste to the maximum extent feasible,
11 and the ~~board~~ *Department of Resources Recycling and Recovery*
12 *or the Department of Toxics and Waste Management* makes a
13 finding that the local agency has diverted at least 30 percent of all
14 solid waste through source reduction, recycling, and composting.

15 *SEC. 52. Section 40127 of the Public Resources Code is*
16 *amended to read:*

17 40127. “Diversion program” means a program in the source
18 reduction and recycling element of a jurisdiction’s integrated waste
19 management plan, specified in Chapter 2 (commencing with
20 Section 41000) of, or Chapter 3 (commencing with Section 41300)
21 of, Part 2 and that has the purpose of diverting solid waste from
22 landfill disposal or transformation through source reduction,
23 recycling, and composting activities. “Diversion program”
24 additionally includes any amendments, revisions, or updates to the
25 element, and any programs set forth in a time extension, alternative
26 requirement, or compliance order approved by the ~~board~~
27 *Department of Resources Recycling and Recovery* pursuant to Part
28 2 (commencing with Section 40900).

29 *SEC. 53. Section 40130 of the Public Resources Code is*
30 *amended to read:*

31 40130. “Enforcement agency” means the local agency
32 designated pursuant to Article 1 (commencing with Section 43200)
33 of Chapter 2 of Part 4 for the purpose of carrying out this division,
34 or the ~~board~~ *Department of Toxics and Waste Management* if no
35 designation of a local agency has been approved by the ~~board~~
36 *Department of Toxics and Waste Management*.

37 *SEC. 54. Section 40131 of the Public Resources Code is*
38 *amended to read:*

39 40131. “Enforcement program” means the regulations and
40 procedures adopted by the ~~board~~ *Department of Toxics and Waste*

1 *Management* pursuant to Chapter 2 (commencing with Section
2 43200) of Part 4.

3 *SEC. 55. Section 40145 of the Public Resources Code is*
4 *amended to read:*

5 40145. "Jurisdiction" means a city, county, or regional agency
6 that is approved by the ~~board~~ *Department of Resources Recycling*
7 *and Recovery and the Department of Toxics and Waste*
8 *Management* pursuant to Section 40975.

9 *SEC. 56. Section 40148 of the Public Resources Code is*
10 *amended to read:*

11 40148. "Large state facility" means those campuses of the
12 California State University and the California Community Colleges,
13 prisons within the Department of Corrections, facilities of the State
14 Department of Transportation, and facilities of other state agencies,
15 that the ~~board~~ *Department of Resources Recycling and Recovery*
16 determines, are primary campuses, prisons, or facilities.

17 *SEC. 57. Section 40150.2 of the Public Resources Code is*
18 *amended to read:*

19 40150.2. "Minor violation" means the failure of a person to
20 comply with a requirement or condition of an applicable law,
21 regulation, permit, information request, order, variance, or other
22 requirement, whether procedural or substantive, that an
23 enforcement agency or the ~~board~~ *Department of Toxics and Waste*
24 *Management* is authorized to implement or enforce pursuant to
25 Part 5 (commencing with Section 45000) and that does not
26 otherwise include any of the following:

27 (a) A violation that results in injury to persons or property or
28 that presents a significant threat to human health or the
29 environment.

30 (b) A knowing, willful, or intentional violation.

31 (c) A violation that is a chronic violation or that is committed
32 by a recalcitrant violator. In determining whether a violation is
33 chronic or a violator is recalcitrant, the enforcement agency or
34 ~~board~~ *the Department of Toxics and Waste Management*, whichever
35 issues the notice to comply, shall consider whether there is
36 evidence indicating that the violator has engaged in a pattern of
37 neglect or disregard with respect to applicable regulatory
38 requirements.

39 (d) A violation that results in an emergency response from a
40 public safety agency.

1 (e) A violation that enables the violator to benefit economically
2 from the noncompliance, either by reduced costs or competitive
3 advantage.

4 *SEC. 58. Section 40183 of the Public Resources Code is*
5 *amended to read:*

6 40183. (a) “Rural city” or “rural regional agency” means a
7 city or regional agency that is located within a rural county as
8 defined in Section 40184.

9 (b) (1) Unless the ~~board~~ *Department of Resources Recycling*
10 *and Recovery* takes action pursuant to paragraph (2), this section
11 does not affect any reduction granted to a rural city by the ~~board~~
12 *Department of Resources Recycling and Recovery or the*
13 *Department of Toxics and Waste Management* pursuant to Section
14 41787 prior to January 1, 2008.

15 (2) The ~~board~~ *Department of Resources Recycling and Recovery*
16 may review and take action regarding any reduction granted to a
17 rural city by the ~~board~~ *Department of Resources Recycling and*
18 *Recovery or the Department of Toxics and Waste Management* in
19 accordance with subdivision (b) of Section 41787.

20 *SEC. 59. Section 40184 of the Public Resources Code is*
21 *amended to read:*

22 40184. (a) “Rural county” means a county or multicounty
23 regional agency that annually disposes of no more than 200,000
24 tons of solid waste.

25 (b) (1) Unless the ~~board~~ *Department of Resources Recycling*
26 *and Recovery* takes action pursuant to paragraph (2), this section
27 does not affect any reduction granted to a rural county by the ~~board~~
28 *Department of Resources Recycling and Recovery or the*
29 *Department of Toxics and Waste Management* pursuant to Section
30 41787 prior to January 1, 2008.

31 (2) The ~~board~~ *Department of Resources Recycling and Recovery*
32 may review and take action regarding any reduction granted to a
33 rural county in accordance with subdivision (b) of Section 41787.

34 *SEC. 60. Section 40194 of the Public Resources Code is*
35 *amended to read:*

36 40194. “Solid waste facility” includes a solid waste transfer
37 or processing station, a composting facility, a gasification facility,
38 a transformation facility, and a disposal facility. For purposes of
39 Part 5 (commencing with Section 45000), “solid waste facility”
40 additionally includes a solid waste operation that may be carried

1 out pursuant to an enforcement agency notification, as provided
2 in regulations adopted by the ~~board~~ *Department of Toxics and*
3 *Waste Management*.

4 SEC. 61. *The heading of Article 1.5 (commencing with Section*
5 *40910) of Chapter 1 of Part 2 of Division 30 of the Public*
6 *Resources Code is amended to read:*

7
8 Article 1.5. ~~Board~~ *Department of Resources Recycling and*
9 *Recovery and Department of Toxic Substances Control Toxics and*
10 *Waste Management Assistance in Local Planning*

11
12 SEC. 62. *Section 40910 of the Public Resources Code is*
13 *amended to read:*

14 40910. The ~~board~~ *Department of Toxics and Waste*
15 *Management* shall establish, on or before January 1, 1994, an office
16 of local government assistance. The office shall, *in consultation*
17 *with the Department of Resources Recycling and Recovery*, to the
18 maximum extent feasible, utilizing existing resources, assist local
19 agencies in the preparation, modification, and implementation of
20 integrated waste management plans.

21 SEC. 63. *Section 40911 of the Public Resources Code is*
22 *amended to read:*

23 40911. In adopting or amending regulations pursuant to this
24 part, the ~~board~~ *Department of Toxics and Waste Management* shall
25 take into account all of the following:

26 (a) The shared responsibility that exists between the ~~board~~
27 *Department of Resources Recycling and Recovery, the Department*
28 *of Toxics and Waste Management*, and local agencies for activities
29 such as the development of markets for materials diverted from
30 disposal facilities, public education and information, and source
31 reduction.

32 (b) The importance of promoting regional cooperation among
33 local agencies and cooperation among local agencies and the ~~board~~
34 *Department of Resources Recycling and Recovery and the*
35 *Department of Toxics and Waste Management* in achieving the
36 objectives of this division, to the extent that this cooperation will
37 result in more cost-effective and efficient implementation of this
38 division.

39 (c) The need for local agencies to receive assistance from the
40 ~~board~~ *Department of Resources Recycling and Recovery and the*

1 *Department of Toxics and Waste Management* in preparing and
2 implementing integrated waste management plans and the elements
3 of those plans.

4 *SEC. 64. Section 40912 of the Public Resources Code is*
5 *amended to read:*

6 40912. (a) ~~The board~~ *Department of Toxics and Waste*
7 *Management* shall develop a model countywide or regional siting
8 element and a model countywide or regional agency integrated
9 waste management plan that will establish prototypes of the content
10 and format that counties or regional agencies may use in meeting
11 the requirements of this part.

12 (b) On or before July 1, 2001, ~~the board~~ *California Integrated*
13 *Waste Management Board* shall develop a model revised source
14 reduction and recycling element that will establish prototypes of
15 the content and format of that element that cities, counties, regional
16 agencies, or a city and county may use in meeting the requirements
17 of this part.

18 (c) ~~The board~~ *Department of Resources Recycling and Recovery*
19 shall adopt a program to provide assistance to cities, counties,
20 regional agencies, or a city and county in the development and
21 implementation of source reduction programs. The program shall
22 include, but not be limited to, the following:

23 (1) The development of model source reduction programs and
24 strategies that may be used at the local and regional level.

25 (2) Ongoing analysis of public and private sector source
26 reduction programs that may be provided to cities, counties,
27 regional agencies, and a city and county in order to assist them in
28 complying with Article 3 (commencing with Section 41050) of
29 Chapter 2 and Article 3 (commencing with Section 41350) of
30 Chapter 3.

31 (3) Assistance to cities, counties, regional agencies, and a city
32 and county in the development of source reduction programs for
33 commercial and industrial generators of solid waste that include
34 the development of source reduction strategies designed for specific
35 types of commercial and industrial generators.

36 (d) ~~The board~~ *Department of Resources Recycling and Recovery*
37 shall, to the maximum extent feasible, utilizing existing resources,
38 provide local jurisdictions and private businesses with information,
39 tools, and mathematical models to assist with meeting or exceeding
40 the 50-percent diversion requirement pursuant to Section 41780.

1 The ~~board~~ *Department of Resources Recycling and Recovery and*
2 *the Department of Toxics and Waste Management* shall act as a
3 solid waste information clearinghouse.

4 (e) (1) On or before April 1, 2003, and using existing resources,
5 the ~~board~~ *California Integrated Waste Management Board* shall
6 provide local jurisdictions and private businesses with information
7 and models to assist with consideration of environmental justice
8 concerns when complying with Section 41701.

9 (2) For the purposes of this subdivision, “environmental justice”
10 has the meaning defined in subdivision (e) of Section 65040.12 of
11 the Government Code.

12 *SEC. 65. Section 40913 of the Public Resources Code is*
13 *amended to read:*

14 40913. (a) On or before January 1, 1994, the ~~board~~ *California*
15 *Integrated Waste Management Board* shall develop and implement
16 a program to assist local agencies in the identification of markets
17 for materials that are diverted from disposal facilities through
18 source reduction, recycling, and composting.

19 (b) The program shall provide information to local agencies on
20 individual purchasers of diverted materials and on potential and
21 actual local, regional, and statewide marketing opportunities for
22 materials that are diverted from disposal facilities. The program
23 also shall provide local agencies with information on programs
24 implemented by the ~~board~~ *Department of Resources Recycling*
25 *and Recovery* and by other agencies of state government to assist
26 in the development, maintenance, and enhancement of markets
27 for materials that are diverted from disposal facilities.

28 *SEC. 66. Section 40950 of the Public Resources Code is*
29 *amended to read:*

30 40950. (a) On or before March 1, 1990, and every five years
31 thereafter, each county, which is not a city and county, shall
32 convene a task force to assist in coordinating the development of
33 city source reduction and recycling elements prepared pursuant to
34 Chapter 2 (commencing with Section 41000), the county source
35 reduction and recycling element prepared pursuant to Chapter 3
36 (commencing with Section 41300), and to assist in the preparation
37 of the countywide siting element prepared pursuant to Chapter 4
38 (commencing with Section 41700).

39 (b) The membership of the task force shall be determined by
40 the county and by a majority of the cities within the county which

1 contain a majority of the population of the incorporated area of
2 the county, except in those counties which have only two cities,
3 in which case the membership of the task force is subject to
4 approval of the city which contains the majority of the population
5 of the incorporated area of the county. The task force may include
6 representatives of the solid waste industry, environmental
7 organizations, the general public, special districts, and affected
8 governmental agencies.

9 (c) To ensure a coordinated and cost-effective regional recycling
10 system, the task force shall do all of the following:

11 (1) Identify solid waste management issues of countywide or
12 regional concern.

13 (2) Determine the need for solid waste collection and transfer
14 systems, processing facilities, and marketing strategies that can
15 serve more than one local jurisdiction within the region.

16 (3) Facilitate the development of multijurisdictional
17 arrangements for the marketing of recyclable materials.

18 (4) To the extent possible, facilitate resolution of conflicts and
19 inconsistencies between or among city and county source reduction
20 and recycling elements.

21 (d) The task force shall develop goals, policies, and procedures
22 which are consistent with guidelines and regulations adopted by
23 the ~~board~~ *Department of Resources Recycling and Recovery or*
24 *the Department of Toxics and Waste Management*, to guide the
25 development of the siting element of the countywide integrated
26 waste management plan.

27 *SEC. 67. Section 40972 of the Public Resources Code is*
28 *amended to read:*

29 40972. This part is binding upon, and enforceable against, the
30 individual cities and counties which are member agencies of the
31 regional agency. However, an agreement adopted pursuant to this
32 article may apportion responsibilities for the implementation of
33 this part among the cities and counties which are member agencies
34 of the regional agency. Nothing in this section is intended to
35 prohibit a city or county which is a member agency of a regional
36 agency from preparing and submitting to the ~~board~~ *Department*
37 *of Resources Recycling and Recovery or the Department of Toxics*
38 *and Waste Management* for review and approval a source reduction
39 and recycling element or household hazardous waste element, *as*
40 *applicable.*

1 *SEC. 68. Section 40973 of the Public Resources Code is*
2 *amended to read:*

3 40973. (a) The regional agency, and not the cities or counties
4 that are member agencies of the regional agency, may be
5 responsible for compliance with Article 1 (commencing with
6 Section 41780) of Chapter 6 if specified in the agreement pursuant
7 to which the regional agency is formed.

8 (b) Notwithstanding Section 41782, except as provided in
9 subdivision (c), if a regional agency has been specified in the
10 regional agency formation agreement as the responsible party for
11 compliance with Article 1 (commencing with Section 41780) of
12 Chapter 6 ~~of Part 1~~, neither the regional agency nor any member
13 jurisdiction of the regional agency shall be eligible for a reduction
14 of the diversion requirements of Section 41780.

15 (c) The regional agency may be eligible for a reduction of
16 diversion and planning requirements if all member jurisdictions
17 of a regional agency are rural cities or rural counties, as defined,
18 respectively, in Sections 40183 and 40184.

19 (d) The regional agency may be eligible for a reduction of
20 planning requirements if all member jurisdictions of a regional
21 agency are cities located in both a rural area and a rural county,
22 as defined in Section 40184, and an unincorporated portion of a
23 county.

24 (e) (1) If, pursuant to subdivision (a), a regional agency is
25 specified in the regional agency formation agreement as the
26 responsible party for compliance with Article 1 (commencing with
27 Section 41780) of Chapter 6, the regional agency shall not be
28 comprised of more than two counties and all of the cities within
29 those two counties, except as otherwise authorized by the ~~board~~
30 *Department of Resources Recycling and Recovery.*

31 (2) ~~The board~~ *Department of Resources Recycling and Recovery*
32 may authorize the formation of a regional agency that exceeds two
33 counties and all of the cities within those two counties, for purposes
34 of compliance with Article 1 (commencing with Section 41780)
35 of Chapter 6, if the ~~board~~ *Department of Resources Recycling and*
36 *Recovery* finds that the formation of the regional agency will not
37 adversely affect compliance with this part.

38 *SEC. 69. Section 40974 of the Public Resources Code is*
39 *amended to read:*

1 40974. (a) Notwithstanding Section 40972, each city or county
2 that is a member agency of a regional agency is liable for any civil
3 penalties that may be imposed by the ~~board~~ *Department of*
4 *Resources Recycling and Recovery* pursuant to Section 41813 or
5 41850. However, an agreement that establishes a regional agency
6 may apportion any civil penalties between or among the cities or
7 counties that are member agencies of the regional agency. The
8 total amount of civil penalties that may be imposed against the
9 regional agency is equivalent to that amount that is the sum of the
10 penalties that may be imposed against each city or county that is
11 a member agency of the regional agency.

12 (b) (1) An agreement may provide that a city or county is
13 subject to the portion of a penalty imposed upon a regional agency
14 pursuant to Section 41850 that is in proportion to the city's or
15 county's responsibility for failure to implement a source reduction
16 and recycling element or household hazardous waste element, as
17 determined by the regional agency.

18 (2) If an agreement provides for apportioning a penalty pursuant
19 to paragraph (1), the regional agency shall provide the city or
20 county with a written notice regarding the city's or county's
21 responsibility, including the basis for determining the city's or
22 county's proportional responsibility, and an opportunity for a
23 hearing before the regional agency's governing body, before
24 assessing the city or county a proportion of the penalty imposed
25 by the ~~board~~ *Department of Resources Recycling and Recovery*.

26 (3) This subdivision does not affect the authority of the ~~board~~
27 ~~*Department of Resources Recycling and Recovery*~~ or the
28 ~~*Department of Toxics and Waste Management*~~ to impose a penalty
29 pursuant to other provisions of this division.

30 SEC. 70. *Section 40975 of the Public Resources Code is*
31 *amended to read:*

32 40975. (a) Any agreement forming a regional agency shall be
33 submitted to the ~~board~~ *Department of Resources Recycling and*
34 ~~*Recovery and the Department of Toxics and Waste Management*~~
35 for review and approval at the time the regional agency integrated
36 waste management plan is submitted to the ~~board~~ *Department of*
37 ~~*Toxics and Waste Management*~~ for review and approval.

38 (b) Any agreement forming a regional agency shall, at minimum,
39 contain all of the following provisions:

1 (1) A listing of the cities and counties which are member
2 agencies of the regional agency, and a description of the regional
3 agency, including the name and address of the regional agency.

4 (2) Consistent with Section 40974, a description of the method
5 by which any civil penalties imposed by the ~~board~~ *Department of*
6 *Resources Recycling and Recovery* pursuant to Sections 41813
7 and 41850 will be allocated among the cities or counties which
8 are member agencies of the regional agency.

9 (3) A contingency plan which shows how each city or county
10 which is a member agency of the regional agency will comply
11 with the requirements of this part, including, but not limited to,
12 Article 1 (commencing with Section 41780) of Chapter 6, in the
13 event that the regional agency is abolished.

14 (4) A description of the duties and responsibilities of each city
15 or county which is a member agency of the regional agency which
16 demonstrates that the city or county will comply with Article 1
17 (commencing with Section 41780) of Chapter 6.

18 (5) A description of source reduction, recycling, and composting
19 programs to be implemented by the regional agency. Those
20 programs shall be at least as comprehensive and effective in
21 meeting the requirements of Article 1 (commencing with Section
22 41780) of Chapter 6 as those which each city or county which is
23 a member agency of the regional agency has proposed in its source
24 reduction and recycling element.

25 (6) Any other additional element as determined to be needed
26 by the cities or counties which are member agencies of the regional
27 agency.

28 *SEC. 71. Section 41030 of the Public Resources Code is*
29 *amended to read:*

30 41030. (a) For the initial source reduction and recycling
31 element of a countywide integrated waste management plan which
32 is required to be submitted to the ~~board pursuant to Section 41791~~
33 *Department of Resources Recycling and Recovery*, the city waste
34 characterization component shall identify the constituent materials
35 which comprise the solid waste generated within the city. The
36 information shall be representative of the solid waste generated
37 within, and disposed of by, the city and shall reflect seasonal
38 variations. The constituent materials shall be identified by volume,
39 percentage in weight or its volumetric equivalent, material type,
40 and source of generation, which includes residential, commercial,

1 industrial, governmental, or other sources. Future revisions of
2 waste characterization studies shall identify the constituent
3 materials which comprise the solid waste disposed of at permitted
4 disposal facilities.

5 (b) In adopting or revising regulations implementing subdivision
6 (a), the ~~board~~ *Department of Resources Recycling and Recovery*
7 shall do all of the following:

8 (1) Permit the use of studies or data developed on a county or
9 regional basis and adapted to the conditions which exist in a city
10 preparing its waste characterization component.

11 (2) Permit the use of preexisting data or studies, including those
12 data and studies prepared by local governments with similar waste
13 characteristics.

14 (3) Require only that amount of seasonal sampling, and waste
15 characterization only of those categories of waste, necessary to
16 achieve the diversion requirements of paragraph (1) of subdivision
17 (a) of Section 41780.

18 *SEC. 72. Section 41031 of the Public Resources Code is*
19 *amended to read:*

20 41031. Any waste characterization component prepared by a
21 city pursuant to Section 41030, and any other information
22 submitted by a city to the ~~board~~ *Department of Resources Recycling*
23 *and Recovery* on the quantities of solid waste generated, diverted,
24 and disposed of, shall include data which is as accurate as possible,
25 on the quantities of solid waste generated, diverted, and disposed
26 of, to enable the ~~board~~ *Department of Resources Recycling and*
27 *Recovery*, to the maximum extent possible, to accurately measure
28 the diversion requirements established under paragraph (1) of
29 subdivision (a) of Section 41780.

30 *SEC. 73. Section 41032 of the Public Resources Code is*
31 *amended to read:*

32 41032. For the first revision, and any subsequent revision, of
33 a source reduction and recycling element of a countywide
34 integrated waste management plan which is required to be
35 submitted to the ~~board~~ *Department of Resources Recycling and*
36 *Recovery* pursuant to Section 41770, the city waste characterization
37 component shall identify the constituent materials which comprise
38 the solid waste disposed of by the city. The information shall be
39 statistically representative of the solid waste disposed of by the
40 city and shall reflect seasonal variations. The constituent materials

1 shall be identified, to the extent practicable, by volume, percentage
2 in weight, or its volumetric equivalent, material type, and source
3 of generation, which includes residential, commercial, industrial,
4 governmental, or other sources.

5 *SEC. 74. Section 41033 of the Public Resources Code is*
6 *amended to read:*

7 41033. Any waste characterization component prepared by a
8 city pursuant to Section 40132, and any other information
9 submitted by a city to the ~~board~~ *Department of Resources Recycling*
10 *and Recovery* on the quantities of solid waste disposed of by the
11 city, shall include data which is as accurate as possible, on the
12 quantities of solid waste generated, diverted, and disposed of, to
13 enable the ~~board~~ *Department of Resources Recycling and Recovery*,
14 to the maximum extent possible, to accurately measure the
15 diversion requirements of paragraph (2) of subdivision (a) of
16 Section 41780.

17 *SEC. 75. Section 41220 of the Public Resources Code is*
18 *amended to read:*

19 41220. The city education and public information component
20 shall describe to the ~~board~~ *Department of Resources Recycling*
21 *and Recovery* how the city will increase public awareness of, and
22 participation in, recycling, source reduction, and composting
23 programs.

24 *SEC. 76. Section 41300 of the Public Resources Code is*
25 *amended to read:*

26 41300. (a) On or before July 1, 1992, each county shall prepare
27 and adopt for the unincorporated area a county source reduction
28 and recycling element which includes all of the components
29 specified in this chapter and which complies with the requirements
30 specified in Chapter 6 (commencing with Section 41780).

31 (b) Notwithstanding subdivision (a), if a county determines that
32 it is unable to comply with the deadline established under
33 subdivision (a) and unable to comply with Division 13
34 (commencing with Section 21000), to the extent that division
35 requires the preparation and certification of an environmental
36 impact report for the element, the county shall do all of the
37 following:

38 (1) On or before July 1, 1992, the county shall adopt a resolution
39 stating the reasons it is unable to comply with the deadline
40 established under subdivision (a) and to complete and certify the

1 environmental impact report for the element. The resolution shall
2 also state a date when the county will comply with the deadline
3 established under subdivision (a) and complete and certify the
4 environmental impact report for the element.

5 (2) On or before July 1, 1992, the county shall submit a copy
6 of the resolution adopted pursuant to paragraph (1) to the ~~board~~
7 *Department of Resources Recycling and Recovery*.

8 (3) Upon completion and certification of the environmental
9 impact report for the source reduction and recycling element, or
10 December 1, 1992, whichever is sooner, the county shall adopt its
11 source reduction and recycling element.

12 *SEC. 77. Section 41330 of the Public Resources Code is*
13 *amended to read:*

14 41330. (a) For the initial source reduction and recycling
15 element of a countywide integrated waste management plan which
16 is required to be submitted to the ~~board~~ pursuant to ~~Section 41791~~
17 *Department of Resources Recycling and Recovery*, the county
18 waste characterization component shall identify the constituent
19 materials which comprise the solid waste generated within the
20 unincorporated area of the county. The information shall be
21 representative of the solid waste generated and disposed of within
22 that area and shall reflect seasonal variations. The constituent
23 materials shall be identified by volume, percentage in weight or
24 its volumetric equivalent, material type, and source of generation
25 which includes residential, commercial, industrial, governmental,
26 or other sources. Future revisions of waste characterization studies
27 shall identify the constituent materials which comprise the solid
28 waste disposed of at permitted disposal facilities.

29 (b) In adopting or revising regulations implementing subdivision
30 (a), the ~~board~~ *Department of Resources Recycling and Recovery*
31 shall do all of the following:

32 (1) Permit the use of studies or data developed on a regional
33 basis and adapted to the conditions which exist in a county
34 preparing its waste characterization component.

35 (2) Permit the use of preexisting data or studies, including those
36 data and studies prepared by local governments with similar waste
37 characteristics.

38 (3) Require only that amount of seasonal sampling, and waste
39 characterization only of those categories of waste, necessary to

1 achieve the diversion requirements of paragraph (1) of subdivision
2 (a) of Section 41780.

3 *SEC. 78. Section 41331 of the Public Resources Code is*
4 *amended to read:*

5 41331. Any waste characterization component prepared by a
6 county pursuant to Section 41330, and any other information
7 submitted by a county to the ~~board~~ *Department of Resources*
8 *Recycling and Recovery* on the quantities of solid waste generated,
9 diverted, and disposed of, shall include data which is as accurate
10 as possible, on the quantities of solid waste generated, diverted,
11 and disposed of, to enable the ~~board~~ *Department of Resources*
12 *Recycling and Recovery*, to the maximum extent possible, to
13 accurately measure the diversion requirements established under
14 paragraph (1) of subdivision (a) of Section 41780.

15 *SEC. 79. Section 41332 of the Public Resources Code is*
16 *amended to read:*

17 41332. For the first revision, and any subsequent revision, of
18 a source reduction and recycling element of a countywide
19 integrated waste management plan which is required to be
20 submitted to the ~~board~~ *Department of Resources Recycling and*
21 *Recovery* pursuant to Section 41770, the county waste
22 characterization component shall identify the constituent materials
23 which comprise the solid waste disposed of within the
24 unincorporated area of the county. The information shall be
25 statistically representative of the solid waste disposed of within
26 that area and shall reflect seasonal variations. The constituent
27 materials shall, to the extent practicable, be identified by volume,
28 percentage in weight, or its volumetric equivalent, material type,
29 and source of generation, which includes residential, commercial,
30 industrial, governmental, or other sources.

31 *SEC. 80. Section 41333 of the Public Resources Code is*
32 *amended to read:*

33 41333. Any waste characterization component prepared by a
34 county pursuant to Section 41332, and any other information
35 submitted by a county to the ~~board~~ *Department of Resources*
36 *Recycling and Recovery* on the quantities of solid waste disposed
37 of, shall include data which is as accurate as practicable, on the
38 quantities of solid waste generated, diverted, and disposed of, to
39 enable the ~~board~~ *Department of Resources Recycling and Recovery*,
40 to the maximum extent possible, to accurately measure the

1 diversion requirements of paragraph (2) of subdivision (a) of
2 Section 41780.

3 *SEC. 81. Section 41420 of the Public Resources Code is*
4 *amended to read:*

5 41420. The county education and public information component
6 shall describe to the ~~board~~ *Department of Resources Recycling*
7 *and Recovery* how the county will educate and inform its citizens
8 about the source reduction, recycling, and composting programs.

9 *SEC. 82. Section 41510 of the Public Resources Code is*
10 *amended to read:*

11 41510. (a) On or before July 1, 1992, each county shall prepare
12 a household hazardous waste element which identifies a program
13 for the safe collection, recycling, treatment, and disposal of
14 hazardous wastes, as defined in Section 25117 of the Health and
15 Safety Code, which are generated by households in the
16 unincorporated area of the county and which should be separated
17 from the solid waste stream. In preparing a county household
18 hazardous waste element pursuant to this section, a county may
19 use components of a county hazardous waste management plan
20 prepared pursuant to Section 25135.1 of the Health and Safety
21 Code, if that plan meets the requirements of this article and of
22 Section 41802.

23 (b) Notwithstanding subdivision (a), if a county determines that
24 it is unable to comply with the deadline established under
25 subdivision (a) and unable to comply with Division 13
26 (commencing with Section 21000), to the extent that division
27 requires the preparation and certification of an environmental
28 impact report for the element, the county shall do all of the
29 following:

30 (1) On or before July 1, 1992, the county shall adopt a resolution
31 stating the reasons it is unable to comply with the deadline
32 established under subdivision (a) and to complete and certify the
33 environmental impact report for the household hazardous waste
34 element. The resolution shall also state a date when the county
35 will comply with the deadline established under subdivision (a)
36 and complete and certify the environmental impact report for the
37 household hazardous waste element.

38 (2) On or before July 1, 1992, the county shall submit its draft
39 household hazardous waste element and a copy of the resolution

1 adopted pursuant to paragraph (1) to the ~~board~~ *Department of*
2 *Toxics and Waste Management*.

3 (3) Upon completion and certification of the environmental
4 impact report for the household hazardous waste element, or
5 December 1, 1992, whichever is sooner, the county shall adopt its
6 household hazardous waste element.

7 *SEC. 83. Section 41720 of the Public Resources Code is*
8 *amended to read:*

9 41720. The countywide siting element submitted to the ~~board~~
10 *Department of Toxics and Waste Management*, shall include a
11 resolution from each affected city or the county stating that any
12 areas identified for the location of a new or expanded solid waste
13 transformation or disposal facility pursuant to Section 41701 is
14 consistent with the applicable general plan.

15 *SEC. 84. Section 41721.5 of the Public Resources Code is*
16 *amended to read:*

17 41721.5. (a) Any amendments to the countywide siting element
18 shall be approved by the county and by a majority of the cities
19 within the county which contain a majority of the population of
20 the incorporated area of the county except in those counties which
21 have only two cities, in which case the amendment is subject to
22 approval of the city which contains the majority of the population
23 of the incorporated area of the county.

24 (b) Any person or public agency proposing the development of
25 a solid waste disposal or transformation facility may initiate an
26 amendment to the countywide siting element by submitting a site
27 identification and description to the county board of supervisors.

28 (c) The county shall submit the site identification and description
29 to the cities within the county within 20 days after the site
30 identification and description is submitted to the county board of
31 supervisors. Each city shall act upon the proposed amendment
32 within 90 days after receipt of the proposed amendment. If a city
33 fails to act upon the proposed amendment within 90 days after
34 receiving the amendment, the city shall be deemed to have
35 approved the proposed amendment as submitted.

36 (d) If the county or a city disapproves the proposed amendment,
37 the county or city shall mail notice of its decision by first-class
38 mail to the person or public agency proposing the amendment
39 within 10 days of the disapproval, stating its reasons for the
40 disapproval.

1 (e) No county or city shall disapprove a proposed amendment
2 unless it determines, based on substantial evidence in the record,
3 that the amendment would cause one or more significant adverse
4 impacts within its boundaries from the proposed project.

5 (f) Within 45 days after the date of disapproval by the county
6 or a city of a proposed amendment, or a decision by the ~~board~~
7 *Department of Toxics and Waste Management* not to concur in the
8 issuance, modification, or revision of a solid waste facilities permit
9 pursuant to Section 44009, any person may file with the superior
10 court a writ of mandate for review of the disapproval or the
11 decision. The evidence before the court shall consist of the record
12 before the county or city which disapproved the proposed
13 amendment or the record before the ~~board~~ *Department of Toxics*
14 *and Waste Management* in its determination not to concur in
15 issuance, modification, or revision of the solid waste facilities
16 permit. Section 1094.5 of the Code of Civil Procedure shall govern
17 the proceedings conducted pursuant to this subdivision.

18 *SEC. 85. Section 41733 of the Public Resources Code is*
19 *amended to read:*

20 41733. Nondisposal facility elements prepared pursuant to this
21 chapter shall include all solid waste facilities and solid waste
22 facility expansions, except disposal facilities and transformation
23 facilities, which will recover for reuse or recycling at least 5 percent
24 of the total volume of material received by the facility. Transfer
25 stations which recover less than 5 percent of the volume of
26 materials received for reuse or recycling shall be included in the
27 element. However, the portions of the element describing these
28 facilities shall not be subject to ~~board~~ *Department of Toxics and*
29 *Waste Management* approval.

30 *SEC. 86. Section 41734 of the Public Resources Code is*
31 *amended to read:*

32 41734. (a) (1) Prior to adopting or amending a nondisposal
33 facility element, the city, county, or regional agency shall submit
34 the element or amendment to the task force created pursuant to
35 Section 40950 for review and comment.

36 (2) Prior to adopting or amending a regional agency nondisposal
37 facility element, if the jurisdiction of the regional agency extends
38 beyond the boundaries of a single county, the regional agency shall
39 submit the element or amendment for review and comment to each

1 task force created pursuant to Section 40950 of each county within
2 the jurisdiction of the regional agency.

3 (b) Comments by the task force shall include an assessment of
4 the regional impacts of potential diversion facilities and shall be
5 submitted to the city, county, or regional agency and to the ~~board~~
6 *Department of Toxics and Waste Management* within 90 days of
7 the date of receipt of the nondisposal facility element for review
8 and comment.

9 *SEC. 87. Section 41750 of the Public Resources Code is*
10 *amended to read:*

11 41750. Each county and city and county shall prepare and
12 submit to the ~~board~~ *Department of Toxics and Waste Management*
13 *or the Department of Resources Recycling and Recovery* in
14 accordance with the schedule set forth in Chapter 6 (commencing
15 with Section 41780), a countywide integrated waste management
16 plan, which includes all of the following:

17 (a) All city source reduction and recycling elements prepared
18 pursuant to Chapter 2 (commencing with Section 41000) and
19 submitted to the county.

20 (b) The county's source reduction and recycling element for the
21 unincorporated area of the county prepared pursuant to Chapter 3
22 (commencing with Section 41300).

23 (c) All city household hazardous waste elements which were
24 prepared pursuant to Article 1 (commencing with Section 41500)
25 of Chapter 3.5 and submitted to the county.

26 (d) The county household hazardous waste element for the
27 unincorporated area of the county prepared pursuant to Article 2
28 (commencing with Section 41510) of Chapter 3.5.

29 (e) The countywide siting element prepared pursuant to Chapter
30 4 (commencing with Section 41700).

31 (f) All city nondisposal facility elements prepared pursuant to
32 Chapter 4.5 (commencing with Section 41730) and submitted to
33 the county.

34 (g) The county nondisposal facility element for the
35 unincorporated area of the county prepared pursuant to Chapter
36 4.5 (commencing with Section 41730).

37 *SEC. 88. Section 41770 of the Public Resources Code is*
38 *amended to read:*

39 41770. (a) Each countywide or regional agency integrated
40 waste management plan, and the elements thereof, shall be

1 reviewed, revised, if necessary, and submitted to the ~~board~~
2 *Department of Toxics and Waste Management or the Department*
3 *of Resources Recycling and Recovery* every five years in
4 accordance with the schedule set forth under Chapter 7
5 (commencing with Section 41800).

6 (b) Any revisions to a countywide or regional agency integrated
7 waste management plan, and the elements thereof, shall use a waste
8 disposal characterization method that the ~~board~~ *Department of*
9 *Resources Recycling and Recovery* shall develop for the use of the
10 city, county, city and county, or regional agency. The city, county,
11 city and county, or regional agency shall conduct waste disposal
12 characterization studies, as prescribed by the ~~board~~ *Department*
13 *of Resources Recycling and Recovery*, if it fails to meet the
14 diversion requirements of Section 41780, at the time of the
15 five-year revision of the source reduction and recycling element.

16 (c) The ~~board~~ *Department of Resources Recycling and Recovery*
17 may review and revise its regulations governing the contents of
18 revised source reduction and recycling elements to reduce
19 duplications in one or more components of these revised elements.

20 *SEC. 89. Section 41780.05 of the Public Resources Code is*
21 *amended to read:*

22 41780.05. (a) After January 1, 2009, pursuant to the review
23 authorized by Section 41825, the ~~board~~ *Department of Resources*
24 *Recycling and Recovery* shall determine each jurisdiction's
25 compliance with Section 41780 for the years commencing with
26 January 1, 2007, by comparing each jurisdiction's change in its
27 per capita disposal rate in subsequent years with the equivalent
28 per capita disposal rate that would have been necessary for the
29 jurisdiction to meet the requirements of Section 41780 on January
30 1, 2007, as calculated pursuant to subdivisions (c) and (d).

31 (b) (1) For purposes of paragraph (5) of subdivision (e) of
32 Section 41825, in making a determination whether a jurisdiction
33 has made a good faith effort to implement its source reduction and
34 recycling element or its household hazardous waste element, the
35 ~~board~~ *Department of Toxics and Waste Management, in*
36 *conjunction with the Department of Resources Recycling and*
37 *Recovery*, shall consider, but is not limited to the consideration of,
38 the jurisdiction's per capita disposal rate and whether the
39 jurisdiction adequately implemented its diversion programs.

(2) When determining whether a jurisdiction has made a good faith effort pursuant to Section 41825 to implement its source reduction and recycling element or its household hazardous waste element, ~~the board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, shall consider that an increase in the per capita disposal rate is the result of the amount of the jurisdiction's disposal increasing faster than the jurisdiction's growth. ~~The board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, shall use this increase in the per capita disposal rate that is in excess of the equivalent per capita disposal rate as a factor in determining whether ~~the board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, is required, pursuant to Section 41825, to more closely examine a jurisdiction's program implementation efforts. This examination may indicate that a jurisdiction is required to expand existing programs or implement new programs, in accordance with the procedures specified in Article 4 (commencing with Section 41825) and in Article 5 (commencing with Section 41850) of Chapter 7.

(3) When reviewing the level of program implementation pursuant to Sections 41825 and 41850, ~~the board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, shall use, as a factor in determining compliance with Section 41780, the amount determined pursuant to subdivision (d) when comparing a jurisdiction's per capita disposal rate in subsequent years.

(c) (1) Except as otherwise provided in this subdivision, for purposes of this section, "per capita disposal" or "per capita disposal rate" means the total annual disposal, in pounds, from a jurisdiction divided by the total population in a jurisdiction, as reported by the Department of Finance, divided by 365 days.

(2) (A) If a jurisdiction is predominated by commercial or industrial activities and by solid waste generation from those sources, ~~the board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, may alternatively calculate per capita disposal to reflect those differing conditions.

1 (B) When making a calculation for a jurisdiction subject to this
2 paragraph, “per capita disposal” or “per capita disposal rate” means
3 the total annual disposal, in pounds, from a jurisdiction divided
4 by total industry employment in a jurisdiction, as reported by the
5 Employment Development Department, divided by 365 days.

6 (C) ~~The board~~ *Department of Toxics and Waste Management,*
7 *in conjunction with the Department of Resources Recycling and*
8 *Recovery*, shall calculate the per capita disposal rate for a
9 jurisdiction subject to this paragraph using the level of industry
10 employment in a jurisdiction instead of the level of population in
11 a jurisdiction.

12 (3) If ~~the board~~ *Department of Toxics and Waste Management,*
13 *in conjunction with the Department of Resources Recycling and*
14 *Recovery*, determines that the method for calculating the per capita
15 disposal rate for a jurisdiction provided by paragraph (1) or (2)
16 does not accurately reflect that jurisdiction’s disposal reduction,
17 ~~the board~~ *Department of Toxics and Waste Management, in*
18 *conjunction with the Department of Resources Recycling and*
19 *Recovery*, may use an alternative per capita factor, other than
20 population or industry employment, to calculate the per capita
21 disposal rate that more accurately reflects the jurisdiction’s efforts
22 to divert solid waste.

23 (d) ~~The board~~ *Department of Toxics and Waste Management,*
24 *in conjunction with the Department of Resources Recycling and*
25 *Recovery*, shall calculate the equivalent per capita disposal rate
26 for each jurisdiction as follows:

27 (1) Except as otherwise provided in this subdivision, the
28 equivalent per capita disposal rate for a jurisdiction shall be
29 determined using the method specified in this paragraph.

30 (A) The calculated generation tonnage for each year from 2003
31 to 2006, inclusive, shall be multiplied by 0.5 to yield the 50 percent
32 equivalent disposal total for each year.

33 (B) The 50 percent equivalent disposal total for each year shall
34 be multiplied by 2,000, divided by the population of the jurisdiction
35 in that year, and then divided by 365 to yield the 50 percent
36 equivalent per capita disposal for each year.

37 (C) The four 50 percent equivalent per capita disposal amounts
38 from the years 2003 to 2006, inclusive, shall be averaged to yield
39 the equivalent per capita disposal rate.

(2) If a jurisdiction is predominated by commercial or industrial activities and by solid waste generation from those sources, the ~~board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, may alternatively calculate the equivalent per capita disposal rate to reflect those conditions by using the level of industry employment in a jurisdiction instead of the level of population in that jurisdiction.

(3) If the ~~board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, determines that the method for calculating the equivalent per capita disposal rate for a jurisdiction pursuant to this subdivision does not accurately reflect a jurisdiction's per capita disposal rate that would be equivalent to the amount required to meet the 50 percent diversion requirements of Section 41780, the ~~board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, may use an alternative per capita factor, other than population or industry employment, to calculate the equivalent per capita disposal rate that more accurately reflects the jurisdiction's diversion efforts.

(4) The ~~board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, shall modify the percentage used in paragraph (1) to maintain the diversion requirements approved by the ~~board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, for a rural jurisdiction pursuant to Section 41787 or for a reduction granted pursuant to Section 41786.

(5) The ~~board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, may modify the years included in making a calculation pursuant to this subdivision for an individual jurisdiction to eliminate years in which the calculated generation amount is shown not to be representative or accurate, based upon a generation study completed in one of the five years 2003 to 2007, inclusive. In these cases, the ~~board~~ *California Integrated Waste Management Board* shall not allow the use of an additional year other than 2003, 2004, 2005, 2006, or 2007.

1 (6) ~~The board~~ *Department of Toxics and Waste Management,*
2 *in conjunction with the Department of Resources Recycling and*
3 *Recovery*, may modify the method of calculating the equivalent
4 per capita disposal rate for an individual jurisdiction to
5 accommodate the incorporation of a new city, the formation of a
6 new regional agency, or changes in membership of an existing
7 regional agency. These modifications shall ensure that a new entity
8 has a new equivalent per capita disposal rate and that the existing
9 per capita disposal rate of an existing entity is adjusted to take into
10 account the disposal amounts lost by the creation of the new entity.

11 (7) ~~The board~~ *California Integrated Waste Management Board*
12 shall not incorporate generation studies or new base year
13 calculations for a year commencing after 2006 into the equivalent
14 per capita disposal rate, unless a generation study that included
15 the year 2007 was commenced on or before June 30, 2008.

16 (8) If ~~the board~~ *Department of Toxics and Waste Management,*
17 *in conjunction with the Department of Resources Recycling and*
18 *Recovery*, determines that the equivalent per capita disposal rate
19 cannot accurately be determined for a jurisdiction, or that the rate
20 is no longer representative of a jurisdiction's waste stream, the
21 ~~board~~ *Department of Toxics and Waste Management, in*
22 *conjunction with the Department of Resources Recycling and*
23 *Recovery*, shall evaluate trends in the jurisdiction's per capita
24 disposal to establish a revised equivalent per capita disposal rate
25 for that jurisdiction.

26 *SEC. 90. Section 41780.1 of the Public Resources Code is*
27 *amended to read:*

28 41780.1. (a) Notwithstanding any other requirement of this
29 part, for the purposes of determining the amount of solid waste
30 that a regional agency is required to divert from disposal or
31 transformation through source reduction, recycling, and composting
32 to meet the diversion requirements of Section 41780, the regional
33 agency shall use the solid waste disposal projections in the source
34 reduction and recycling elements of the regional agency's member
35 agencies. The method prescribed in Section 41780.2 shall be used
36 to determine the maximum amount of disposal allowable to meet
37 the diversion requirements of Section 41780.

38 (b) Notwithstanding any other requirement of this part, for the
39 purposes of determining the amount of solid waste that a city or
40 county is required to divert from disposal or transformation through

1 source reduction, recycling, and composting to meet the diversion
2 requirements of Section 41780, the city or county shall use the
3 solid waste disposal projections in the source reduction and
4 recycling elements of the city or county. The method prescribed
5 in Section 41780.2 shall be used to determine the maximum amount
6 of disposal allowable to meet the diversion requirements of Section
7 41780.

8 (c) To determine achievement of the diversion requirements of
9 Section 41780 in 1995 and in the year 2000, projections of disposal
10 amounts from the source reduction and recycling elements shall
11 be adjusted to reflect annual increases or decreases in population
12 and other factors affecting the waste stream, as determined by the
13 ~~board~~ *California Integrated Waste Management Board*. By January
14 1, 1994, the ~~board~~ *California Integrated Waste Management Board*
15 shall study the factors which affect the generation and disposal of
16 solid waste and shall develop a standard methodology and
17 guidelines to be used by cities, counties, and regional agencies in
18 adjusting disposal projections as required by this section.

19 (d) The amount of additional diversion required to be achieved
20 by a regional agency to meet the diversion requirements of Section
21 41780 shall be equal to the sum of the diversion requirements of
22 its member agencies. To determine the maximum amount of
23 disposal allowable for the regional agency to meet the diversion
24 requirements of Section 41780, the maximum amount of disposal
25 allowable for each member agency shall be added together to yield
26 the agency disposable maximum.

27 *SEC. 91. Section 41781.1 of the Public Resources Code is*
28 *amended to read:*

29 41781.1. (a) Prior to determining that the diversion of sludge
30 may be counted toward the diversion requirements established
31 under Section 41780, but within 180 days of receiving such a
32 request, the ~~board~~ *Department of Toxics and Waste Management*
33 shall do both of the following:

34 (1) Make a finding at a public hearing, based upon substantial
35 evidence, that the sludge has been adequately analyzed and will
36 not pose a threat to public health or the environment for the reuse
37 which is proposed.

38 (A) Except as provided in subparagraph (B), prior to making
39 the finding required to be made pursuant to this paragraph, the
40 ~~board~~ *Department of Toxics and Waste Management* shall consult

with each of the following agencies, and obtain their concurrence in the finding, to the extent of each agency's jurisdiction over the sludge or its intended reuse:

- (i) The state water board and the regional water board.
- (ii) The State Department of Health Services.
- (iii) The State Air Resources Board and air pollution control districts and air quality management districts.
- ~~(iv) The Department of Toxic Substances Control.~~

(B) If, prior to the ~~board~~ *Department of Toxics and Waste Management* making the finding required to be made pursuant to this paragraph, an agency specified in subparagraph (A) issues a permit, waste discharge requirements, or imposes other conditions for the reuse of sludge, the agency shall have been deemed to have concurred in that finding.

(2) Establish, or ensure that one or more of the agencies specified in subparagraph (A) of paragraph (1) establishes, ongoing monitoring requirements which ensure that the proposed sludge reuse does not pose a threat to health and safety or the environment.

(b) It is not the intent of this section to require the ~~board~~ *Department of Toxics and Waste Management*, or the agencies listed in subparagraph (A) of paragraph (1) of subdivision (a), to impose additional requirements or approval procedures for sludge or sludge reuse applications, apart from the requirements and approval procedures already imposed by state and federal law. It is the intent of this section to require that the ~~board~~ *Department of Toxics and Waste Management* determine that each sludge diversion, for which diversion credit is sought, meets all applicable requirements of state and federal law, and thereby provides for maximum protection of the public health and safety and the environment.

SEC. 92. Section 41781.2 of the Public Resources Code is amended to read:

41781.2. (a) (1) It is the intent of the Legislature in enacting this section not to require cities, counties, and regional agencies to revise source reduction and recycling elements prior to their submittal to the ~~board~~ *Department of Resources Recycling and Recovery* for review and approval, except as the elements would otherwise be required to be revised by the ~~board~~ *Department of Resources Recycling and Recovery* pursuant to this part. Pursuant to Sections 41801.5 and 41811.5, compliance with this section

1 shall be determined by the ~~board~~ *Department of Resources*
2 *Recycling and Recovery* when source reduction and recycling
3 elements are submitted to the ~~board~~ *Department of Resources*
4 *Recycling and Recovery* pursuant to Section 41791.5. However,
5 any city or county may choose to revise its source reduction and
6 recycling element or any of its components prior to ~~board~~
7 *Department of Resources Recycling and Recovery* review of the
8 source reduction and recycling element for the purpose of
9 complying with this section.

10 (2) It is further the intent of the Legislature in enacting this
11 section to ensure that compliance with the diversion requirements
12 of Section 41780 shall be accurately determined based upon a
13 correlation between solid waste which was disposed of at permitted
14 disposal facilities and diversion claims which are subsequently
15 made for that solid waste.

16 (b) For the purposes of this section, the following terms have
17 the following meaning:

18 (1) “Action by a city, county, regional, or local governing body”
19 means franchise or contract conditions, rate or fee schedules,
20 zoning or land use decisions, disposal facility permit conditions,
21 or activities by a waste hauler, recycler, or disposal facility operator
22 acting on behalf of a city, county, regional agency, or local
23 governing body, or other action by the local governing body if the
24 local government action is specifically related to the claimed
25 diversion.

26 (2) “Scrap metal” includes ferrous metals, nonferrous metals,
27 aluminum scrap, other metals, and auto bodies, but does not include
28 aluminum cans, steel cans, or bimetal cans.

29 (3) “Inert solids” includes rock, concrete, brick, sand, soil, fines,
30 asphalt, and unsorted construction and demolition waste.

31 (4) “Agricultural wastes” includes solid wastes of plant and
32 animal origin, which result from the production and processing of
33 farm or agricultural products, including manures, orchard and
34 vineyard prunings, and crop residues, which are removed from the
35 site of generation for solid waste management. Agriculture refers
36 to SIC Codes 011 to 0291, inclusive.

37 (c) For purposes of determining the base amount of solid waste
38 from which the diversion requirements of this article shall be
39 calculated, “solid waste” does not include the diversion of
40 agricultural wastes; inert solids, including inert solids used for

1 structural fill; discarded, white-coated, major appliances; and scrap
2 metals; unless all of the following criteria are met:

3 (1) The city, county, or regional agency demonstrates that the
4 material was diverted from a permitted disposal facility through
5 an action by the city, county, or regional agency which specifically
6 resulted in the diversion.

7 (2) The city, county, or regional agency demonstrates that, prior
8 to January 1, 1990, the solid waste which is claimed to have been
9 diverted was disposed of at a permitted disposal facility in the
10 quantity being claimed as diversion. If historical disposal data is
11 not available, that demonstration may be based upon information
12 available to the city, county, or regional agency which substantiates
13 a reasonable estimate of disposal quantities which is as accurate
14 as is feasible in the absence of historical disposal data.

15 (3) The city, county, or regional agency is implementing, and
16 will continue to implement, source reduction, recycling, and
17 composting programs, as described in its source reduction and
18 recycling element.

19 (d) If a city, county, or regional agency source reduction and
20 recycling element submitted pursuant to this chapter includes the
21 diversion of any of the wastes specified in subdivision (c) for years
22 preceding the year commencing January 1, 1990, that diversion
23 shall not apply to the diversion requirements of Section 41780,
24 unless the criteria in subdivision (c) are met.

25 (e) If a city, county, or regional agency source reduction and
26 recycling element submitted pursuant to this chapter does not
27 contain information sufficient for the city, county, or regional
28 agency to demonstrate to the ~~board~~ *Department of Resources*
29 *Recycling and Recovery* whether the criteria in subdivision (c)
30 have been met, the city, county, or regional agency may provide
31 additional information following ~~board~~ *Department of Resources*
32 *Recycling and Recovery* review of the source reduction and
33 recycling element pursuant to Section 41791.5. In providing the
34 additional information, Sections 41801.5 and 41811.5 shall apply.

35 (f) In demonstrating whether the requirements of paragraph (1)
36 of subdivision (c) have been met, the city, county, or regional
37 agency shall submit information to the ~~board~~ *Department of*
38 *Resources Recycling and Recovery* on local government programs
39 which are specifically related to the claimed diversion.

(g) Notwithstanding any other provision of law, for purposes of determining the base amount of solid waste from which the diversion requirements of this article shall be calculated for a city, county, or regional agency which includes biomass conversion in its source reduction and recycling element pursuant to Section 41783.1, the base amount shall include those materials disposed of in the base year at biomass conversion facilities.

SEC. 93. Section 41781.3 of the Public Resources Code is amended to read:

41781.3. (a) The use of solid waste for beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover, which reduces or eliminates the amount of solid waste being disposed pursuant to Section 40124, shall constitute diversion through recycling and shall not be considered disposal for the purposes of this division.

(b) Prior to December 31, 1997, pursuant to the ~~board's~~ *California Integrated Waste Management Board's* authority to adopt rules and regulations pursuant to Section 40502, the ~~board~~ *California Integrated Waste Management Board*, shall, by regulation, establish conditions for the use of alternative daily cover that are consistent with this division. In adopting the regulations, the ~~board~~ *California Integrated Waste Management Board* shall consider, but is not limited to, all of the following criteria:

(1) Those conditions established in past policies adopted by the ~~board~~ *California Integrated Waste Management Board* affecting the use of alternative daily cover.

(2) Those conditions necessary to provide for the continued economic development, economic viability, and employment opportunities provided by the composting industry in the state.

(3) Those performance standards and limitations on maximum functional thickness necessary to ensure protection of public health and safety consistent with state minimum standards.

(c) Until the adoption of additional regulations, the use of alternative daily cover shall be governed by the conditions established by the ~~board~~ *California Integrated Waste Management Board* in its existing regulations set forth in paragraph (3) of subdivision (b) of, and paragraph (3) of subdivision (c) of, Section 18813 of Title 14 of the California Code of Regulations, as those sections read on the effective date of this section, and by the

1 conditions established in the ~~board's~~ *California Integrated Waste*
2 *Management Board's* policy adopted on January 25, 1995.

3 (d) In adopting rules and regulations pursuant to this section,
4 Section 40124, and this division, including, but not limited to, Part
5 2 (commencing with Section 40900), the ~~board~~ *Department of*
6 *Toxics and Waste Management* shall provide guidance to local
7 enforcement agencies on any conditions and restrictions on the
8 utilization of alternative daily cover so as to ensure proper
9 enforcement of those rules and regulations.

10 *SEC. 94. Section 41782 of the Public Resources Code is*
11 *amended to read:*

12 41782. (a) The ~~board~~ *Department of Resources Recycling and*
13 *Recovery* may make adjustments to the amounts reported pursuant
14 to subdivisions (a) and (c) of Section 41821.5, if the city, county,
15 or regional agency demonstrates, and the ~~board~~ *Department of*
16 *Resources Recycling and Recovery* concurs, based on substantial
17 evidence in the record, that achievement of the diversion
18 requirements of Section 41780 is not feasible due to either of the
19 following circumstances:

20 (1) A medical waste treatment facility, as defined in subdivision
21 (a) of Section ~~25025~~ *117725* of the Health and Safety Code, accepts
22 untreated medical waste, which was generated outside of the
23 jurisdiction, for purposes of treatment, and the medical waste,
24 when treated, becomes solid waste.

25 (2) (A) A regional diversion facility within the jurisdiction
26 accepts material generated outside the jurisdiction and the
27 conversion or processing of that material results in the production
28 of residual solid waste that cannot feasibly be diverted. Any
29 adjustment provided pursuant to this paragraph shall apply only
30 to that portion of the residual solid waste produced as a
31 consequence of processing material that is not subject to the
32 reporting requirements of subdivisions (a) and (c) of Section
33 41821.5 and that cannot feasibly be allocated to the originating
34 jurisdiction.

35 (B) For purposes of granting the reduction specified in
36 subparagraph (A) and for the purpose of calculating compliance
37 with the diversion requirements of Section 41780, "regional
38 diversion facility" means a facility which meets all of the following
39 criteria:

1 (1) The facility accepts material for recycling from both within
2 and without the jurisdiction of the city or county within which it
3 is located.

4 (2) All material accepted by the facility has been
5 source-separated for the purpose of being processed prior to its
6 arrival at the facility.

7 (3) The residual solid waste generated by the facility is a
8 byproduct of the recycling that takes place at the facility.

9 (4) The facility is not a solid waste facility or solid waste
10 handling operation pursuant to Section 43020.

11 (5) The facility contributes to regional efforts to divert solid
12 waste from disposal.

13 (b) If the ~~board~~ *Department of Resources Recycling and*
14 *Recovery* makes an adjustment pursuant to subdivision (a), the
15 annual report required pursuant to Section 41821 by the
16 jurisdiction, within which a medical waste treatment facility or
17 regional diversion facility described in subdivision (a) is located,
18 shall include all of the following information:

19 (1) The total amount of residual solid waste produced at the
20 facility.

21 (2) The waste types and amounts in the residual solid waste that
22 cannot feasibly be diverted.

23 (3) The factors that continue to prevent the waste types from
24 being feasibly diverted.

25 (4) Any changes since the petition for adjustment was granted
26 or since the last annual report.

27 (5) The additional efforts undertaken by the jurisdiction to divert
28 the waste produced at the facility.

29 (c) Based upon the information submitted pursuant to
30 subdivision (b), if the ~~board~~ *Department of Resources Recycling*
31 *and Recovery* finds, as part of the biennial review pursuant to
32 Section 41825, that the residual solid waste that previously could
33 not be diverted can now be diverted, the ~~board~~ *Department of*
34 *Resources Recycling and Recovery* shall rescind the adjustment
35 commensurate with the amount of diversion of the residual
36 tonnages.

37 (d) It is not the intent of the Legislature to exempt any solid
38 waste facility or handling operation from periodic tracking and
39 the reporting of disposal tonnages in accordance with the
40 regulations adopted by the ~~board~~ *Department of Toxics and Waste*

1 *Management or the Department of Resources Recycling and*
2 *Recovery pursuant to subdivisions (a) and ~~(e)~~ (d) of Section*
3 *41821.5, or from the permitting requirements pursuant to Section*
4 *43020.*

5 *SEC. 95. Section 41783 of the Public Resources Code is*
6 *amended to read:*

7 41783. (a) For a jurisdiction's source reduction and recycling
8 element submitted to the ~~board~~ *California Integrated Waste*
9 *Management Board* after January 1, 1995, and on or before January
10 1, 2009, the 50 percent diversion requirement specified in
11 paragraph (2) of subdivision (a) of Section 41780 may include not
12 more than 10 percent through transformation, as defined in Section
13 40201, if all of the following conditions are met:

14 (1) The transformation project is in compliance with Sections
15 21151.1 and 44150 of this code and Section 42315 of the Health
16 and Safety Code.

17 (2) The transformation project uses front-end methods or
18 programs to remove all recyclable materials from the waste stream
19 prior to transformation to the maximum extent feasible.

20 (3) The ash or other residue generated from the transformation
21 project is routinely tested at least once quarterly, or on a more
22 frequent basis as determined by the agency responsible for
23 regulating the testing and disposal of the ash or residue, and,
24 notwithstanding Section 25143.5 of the Health and Safety Code,
25 if hazardous wastes are present, the ash or residue is sent to a class
26 1 hazardous waste disposal facility.

27 (4) The ~~board~~ *California Integrated Waste Management Board*
28 holds a public hearing in the city, county, or regional agency
29 jurisdiction within which the transformation project is proposed,
30 and, after the public hearing, the ~~board~~ *California Integrated Waste*
31 *Management Board* makes both of the following findings, based
32 upon substantial evidence on the record:

33 (A) The city, county, or regional agency is, and will continue
34 to be, effectively implementing all feasible source reduction,
35 recycling, and composting measures.

36 (B) The transformation project will not adversely affect public
37 health and safety or the environment.

38 (5) The transformation facility is permitted and operational on
39 or before January 1, 1995.

(6) The city, county, or regional agency does not include biomass conversion, as authorized pursuant to Section 41783, in its source reduction and recycling element.

(b) On and after January 1, 2009, for purposes of the review authorized by Section 41825, with regard to a jurisdiction's compliance with Section 41780 for each year commencing January 1, 2007, the ~~board~~ *California Integrated Waste Management Board or its successor* may reduce the per capita disposal rate for a jurisdiction, as calculated pursuant to subdivision (d) of Section 41780.05, by no more than 10 percent of the average of the calculated per capita generation tonnage amount, if the jurisdiction otherwise meets the substantive requirements specified in paragraphs (1) to (6), inclusive, of subdivision (a), for solid waste to be included as diversion for purposes of that subdivision.

SEC. 96. Section 41783.1 of the Public Resources Code is amended to read:

41783.1. (a) For any city, county, or regional agency source reduction and recycling element submitted to the ~~board~~ *California Integrated Waste Management Board or the Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, after January 1, 1995, the 50 percent diversion requirement specified in paragraph (2) of subdivision (a) of Section 41780 may include not more than 10 percent through biomass conversion if all of the following conditions are met:

(1) The biomass conversion project exclusively processes biomass.

(2) The biomass conversion project is in compliance with all applicable air quality laws, rules, and regulations.

(3) The ash or other residue from the biomass conversion project is regularly tested to determine if it is hazardous waste and, if it is determined to be hazardous waste, the ash or other residue is sent to a class 1 hazardous waste disposal facility.

(4) The ~~board~~ *California Integrated Waste Management Board, or the Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, determines, at a public hearing, based upon substantial evidence in the record, that the city, county, or regional agency is, and will continue to be, effectively implementing all feasible source reduction, recycling, and composting measures.

(5) The city, county, or regional agency does not include transformation, as authorized pursuant to Section 41783, in its source reduction and recycling element.

SEC. 97. Section 41784 of the Public Resources Code is amended to read:

41784. If the ~~board~~ California Integrated Waste Management Board, or the Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery, determines that a city or county source reduction and recycling element submitted after January 1, 1995, will not achieve the 50 percent requirement established under Section 41780, and the city or county chooses not to use a transformation project to achieve the 50 percent requirement, the ~~board~~ Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery, shall not require the city or county to achieve the 50 percent diversion requirement through transformation, or impose any penalty on the city or county to compel the city or county to achieve the 50 percent requirement through transformation.

SEC. 98. Section 41786 of the Public Resources Code is amended to read:

41786. (a) Notwithstanding Section 41780, the ~~board~~ Department of Resources Recycling and Recovery may reduce the diversion requirements specified in Section 41780 for any city or county which, on or before January 1, 1990, disposed of 75 percent or more of its solid waste, collected by the jurisdiction or its authorized agents or contractors, by transformation if either of the following conditions exist:

(1) The attainment of the 25 percent or 50 percent diversion requirement specified in Section 41780 will result in substantial impairment of the obligations of one or more contracts in existence on January 1, 1990, for the city or county to furnish solid waste for fuel. A substantial impairment of obligations includes, but is not limited to, instances where a city has entered into a contract or franchise for 20 or more years with a joint powers authority for the operation of a transformation facility, and meeting the diversion requirements of Section 41780 may increase the city's costs by 15 percent or more.

(2) The attainment of the 25 percent or 50 percent diversion requirement specified in Section 41780 will substantially interfere

1 with the repayment of debt incurred to finance or refinance the
2 transformation project, if the refinancing is done for the purpose
3 of reducing debt service and not for the expansion of the
4 transformation project.

5 (b) If the ~~board~~ *Department of Resources Recycling and*
6 *Recovery* reduces the diversion requirements for a city or county
7 pursuant to subdivision (a), the ~~board~~ *Department of Resources*
8 *Recycling and Recovery* shall establish new diversion requirements
9 which require the maximum feasible amount of source reduction,
10 recycling, and composting but which will not result in the
11 conditions described in paragraphs (1) and (2) of subdivision (a).

12 *SEC. 99. Section 41787 of the Public Resources Code is*
13 *amended to read:*

14 41787. (a) (1) The ~~board~~ *Department of Resources Recycling*
15 *and Recovery* may reduce the diversion requirements of Section
16 41780 for a rural city if the rural city demonstrates, and the ~~board~~
17 *Department of Resources Recycling and Recovery* concurs, based
18 on substantial evidence in the record, that achievement of the
19 diversion requirements is not feasible due to both of the following
20 conditions:

21 (A) The small geographic size or low population density of the
22 rural city.

23 (B) The small quantity of solid waste generated within the rural
24 city.

25 (2) The ~~board~~ *Department of Resources Recycling and Recovery*
26 may reduce the diversion requirements of Section 41780 for the
27 unincorporated area of a rural county if the rural county
28 demonstrates, and the ~~board~~ *Department of Resources Recycling*
29 *and Recovery* concurs, based on substantial evidence in the record,
30 that achievement of the diversion requirements is not feasible due
31 to both of the following conditions:

32 (A) The large geographic size or low population density of the
33 rural county.

34 (B) The small quantity of solid waste generated within the rural
35 county.

36 (3) The ~~board~~ *Department of Resources Recycling and Recovery*
37 may grant a reduction in diversion requirements pursuant to this
38 subdivision only if the rural city or the rural county demonstrates
39 to the ~~board~~ *Department of Resources Recycling and Recovery*,
40 and the ~~board~~ *Department of Resources Recycling and Recovery*

1 concurs, based on substantial evidence in the record, that it has,
2 at a minimum, implemented all of the following programs:

3 (A) A source reduction and recycling program designed to
4 handle the predominant classes and types of solid waste generated
5 within the rural city or rural county.

6 (B) A public sector diversion and procurement program.

7 (C) A public information and education program.

8 (b) If, as part of the review performed pursuant to Section 41825,
9 ~~the board~~ *Department of Resources Recycling and Recovery* finds
10 that a rural city or a rural county, ~~which~~ *that* previously qualified
11 for a reduction in diversion requirements pursuant to subdivision
12 (a), is no longer eligible for that reduction, ~~the board~~ *Department*
13 *of Resources Recycling and Recovery* shall issue an order requiring
14 the rural city or rural county to comply with the diversion
15 requirements of Section 41780.

16 *SEC. 100. Section 41787.1 of the Public Resources Code is*
17 *amended to read:*

18 41787.1. (a) Rural cities and rural counties may join to form
19 rural regional agencies pursuant to Article 3 (commencing with
20 Section 40970) of Chapter 1.

21 (b) A rural regional agency, and not the rural cities or rural
22 counties which are member jurisdictions of the rural regional
23 agency, may be responsible for compliance with Article 1
24 (commencing with Section 41780) of Chapter 6 if specified in the
25 agreement pursuant to which the rural regional agency is formed.

26 (c) (1) ~~The board~~ *Department of Resources Recycling and*
27 *Recovery* may reduce the diversion requirements of Section 41780
28 for a rural regional agency, if the rural regional agency
29 demonstrates, and ~~the board~~ *Department of Resources Recycling*
30 *and Recovery* concurs, based on substantial evidence in the record,
31 that achievement of the diversion requirements is not feasible
32 because adverse market or economic conditions beyond the control
33 of the rural regional agency prevent it from meeting the
34 requirements of Section 41780.

35 (2) Before a rural regional agency may be granted a reduction
36 in diversion requirements pursuant to paragraph (1), it shall
37 demonstrate that, at a minimum, it has established all of the
38 following regionwide programs:

1 (A) A source reduction and recycling program or programs
2 designed to handle the predominant classes and types of solid
3 waste generated within the rural regional agency.

4 (B) A regional diversion and procurement program or programs.

5 (C) A regional public information and education program or
6 programs.

7 (d) (1) Notwithstanding Section 40974, any civil penalty
8 imposed on a rural regional agency by the ~~board~~ *Department of*
9 *Resources Recycling and Recovery* pursuant to Section 41813 or
10 41850 shall be imposed only on a member rural city or county that
11 is in violation of this division as a city or county irrespective of
12 its membership in the rural regional agency. If a rural regional
13 agency elects to apportion penalties pursuant to this subdivision,
14 the member jurisdiction to that rural regional agency shall, as a
15 condition of the agreement establishing the rural regional agency,
16 be required to account on an individual jurisdictional basis for
17 their compliance with the diversion requirements of Section 41780,
18 as prescribed by Section 41780.2.

19 (2) In determining whether to impose a penalty on a member
20 of a rural regional agency pursuant to this subdivision, the ~~board~~
21 *Department of Resources Recycling and Recovery* may consider
22 all of the following:

23 (A) The relevant circumstances that resulted in the agency's
24 failure to achieve the diversion requirements of paragraphs (1) and
25 (2) of subdivision (a) of Section 41780, and whether the member
26 contributed to the circumstances that resulted in the failure to
27 achieve the diversion requirements.

28 (B) Whether the agency's joint powers agreement specifies that
29 all liability for fines and penalties rests with the member, with no
30 liability assigned to the agency.

31 (C) Whether the imposition of penalties on members and not
32 on the agency would provide for flexibility that would allow the
33 agency to resolve the problem that is preventing the members from
34 meeting the diversion requirements.

35 (D) Limiting penalties to a maximum of ten thousand dollars
36 (\$10,000) per day if a member's failure does not cause other
37 members or the agency to fail to implement programs in the
38 agency's source reduction and recycling element.

39 *SEC. 101. Section 41787.2 of the Public Resources Code is*
40 *amended to read:*

1 41787.2. (a) A rural city or a rural county, which has received,
2 or is eligible for, a reduction in diversion requirements pursuant
3 to Section 41787, may become a member of a rural regional agency
4 for the purpose of complying with the diversion requirements of
5 Section 41780, in which case the region's maximum disposal
6 tonnage allowable shall be calculated as follows:

7 (1) Determining the regional maximum disposal tonnage
8 allowable, excluding members with reduced diversion
9 requirements.

10 (2) Determining the maximum disposal tonnage allowable for
11 those members authorized to meet reduced diversion requirements.

12 (3) Adding the calculated maximum disposal tonnages
13 determined pursuant to paragraphs (1) and (2) to determine the
14 regional maximum disposal tonnage allowable.

15 (b) (1) A rural regional agency may not assume responsibility
16 for compliance with diversion requirements upon formation
17 pursuant to subdivision (b) of Section 41787.1, and for compliance
18 with Article 1 (commencing with Section 41780), if the rural
19 regional agency is comprised of more than two rural counties,
20 unless authorized by the ~~board~~ *Department of Resources Recycling*
21 *and Recovery* pursuant to paragraph (2).

22 (2) The ~~board~~ *Department of Resources Recycling and Recovery*
23 may authorize the assumption of responsibility for compliance
24 with diversion requirements by a rural regional agency upon
25 formation, which is comprised of more than two rural counties, if
26 the ~~board~~ *Department of Resources Recycling and Recovery* finds
27 that the rural regional agency's assumption of responsibility will
28 not adversely affect compliance with this part.

29 *SEC. 102. Section 41787.3 of the Public Resources Code is*
30 *amended to read:*

31 41787.3. The ~~board~~ *Department of Resources Recycling and*
32 *Recovery*, in consultation with rural cities and rural counties, shall
33 develop model programs and materials to assist rural cities and
34 rural counties in complying with the requirements of Chapter 2
35 (commencing with Section 41000) and Chapter 3 (commencing
36 with Section 41300). Those model programs and materials shall
37 be designed to assist rural cities and rural counties in achieving
38 the purposes of this division in a manner which minimizes, to the
39 maximum extent feasible, the costs imposed on rural cities and
40 rural counties to comply with this division.

1 *SEC. 103. Section 41787.4 of the Public Resources Code is*
2 *amended to read:*

3 41787.4. Notwithstanding Section 41820, the ~~board~~ *Department*
4 *of Resources Recycling and Recovery* may grant a two-year time
5 extension from the diversion requirements of Section 41780 to a
6 rural city, rural county, or rural regional agency if all of the
7 following conditions are met:

8 (a) The ~~board~~ *Department of Resources Recycling and Recovery*
9 adopts written findings, based on substantial evidence in the record,
10 that adverse market or economic conditions beyond the control of
11 the rural city, rural county, or rural regional agency prevent the
12 rural city, rural county, or rural regional agency from meeting the
13 diversion requirements.

14 (b) The rural city, rural county, or rural regional agency submits
15 a plan of correction that demonstrates how it will meet the
16 diversion requirements before the time extension expires, which
17 includes the source reduction, recycling, and composting programs
18 it will implement and states how those programs will be funded.

19 (c) The rural city, rural county, or rural regional agency
20 demonstrates that it is achieving the maximum feasible amount of
21 source reduction, recycling, or composting of solid waste within
22 its jurisdiction.

23 *SEC. 104. Section 41790 of the Public Resources Code is*
24 *amended to read:*

25 41790. In order to coordinate solid waste management activities
26 throughout the state and to ensure that Article 2 (commencing with
27 Section 40050) of Chapter 1 of Part 1 is implemented, the ~~board~~
28 ~~Department of Toxics and Waste Management, in conjunction with~~
29 ~~the Department of Resources Recycling and Recovery,~~ shall review
30 each county and city source reduction and recycling element and
31 each countywide integrated waste management plan adopted
32 pursuant to this part to determine if it complies with Article 2
33 (commencing with Section 40050) of Chapter 1 of Part 1.

34 *SEC. 105. Section 41791 of the Public Resources Code is*
35 *amended to read:*

36 41791. (a) If any city or county has less than eight years of
37 remaining disposal site capacity, the countywide integrated waste
38 management plan shall be submitted to the ~~board~~ *Department of*
39 ~~Toxics and Waste Management~~ within 12 months after the Office
40 of Administrative Law formally approves regulations for the

1 preparation of countywide siting elements and countywide
2 integrated waste management plans pursuant to Section 11349.3
3 of the Government Code.

4 (b) If any city or county has eight or more years of remaining
5 disposal site capacity, the countywide integrated waste management
6 plan shall be submitted to the ~~board~~ *Department of Toxics and*
7 *Waste Management* within 18 months after the Office of
8 Administrative Law formally approves regulations for the
9 preparation of countywide siting elements and countywide
10 integrated waste management plans pursuant to Section 11349.3
11 of the Government Code.

12 (c) A regional agency integrated waste management plan shall
13 be submitted to the ~~board~~ *Department of Toxics and Waste*
14 *Management* within 18 months after the Office of Administrative
15 Law formally approves regulations for the preparation of
16 countywide siting elements and countywide integrated waste
17 management plans pursuant to Section 11349.3 of the Government
18 Code.

19 *SEC. 106. Section 41791.1 of the Public Resources Code is*
20 *amended to read:*

21 41791.1. In reviewing, commenting upon, and approving or
22 disapproving integrated waste management plans and the elements
23 ~~thereof of the plan~~, the ~~board~~ *Department of Toxics and Waste*
24 *Management* shall take into account both of the following:

25 (a) The shared responsibility which exists under law between
26 the ~~board~~ *Department of Resources Recycling and Recovery* and
27 local agencies for activities such as the development of markets
28 for materials diverted from disposal facilities, public education
29 and information, and source reduction.

30 (b) The importance of promoting regional cooperation among
31 local agencies, and cooperation between local agencies and the
32 ~~board~~ *Department of Resources Recycling and Recovery* in
33 achieving the objectives of this division, to the extent that
34 cooperation will result in more cost-effective and efficient
35 implementation of this division.

36 *SEC. 107. Section 41791.2 of the Public Resources Code is*
37 *amended to read:*

38 41791.2. In reviewing, commenting upon, and approving or
39 disapproving integrated waste management plans and the elements
40 ~~thereof of the plan~~, the ~~board~~ *Department of Resources Recycling*

1 *and Recovery* shall assist local agencies, to the extent that local
2 agencies request this assistance within the same region, in
3 developing regional cooperative approaches to source reduction,
4 public information and education, and market development, if the
5 approaches result in more efficient and cost-effective
6 implementation of this division.

7 *SEC. 108. Section 41791.5 of the Public Resources Code is*
8 *amended to read:*

9 41791.5. (a) (1) Notwithstanding Section 41791, and except
10 as provided in subdivision (b), each city, county, and regional
11 agency shall submit its source reduction and recycling element
12 and its nondisposal facility element to the ~~board~~ *Department of*
13 *Toxics and Waste Management and the Department of Resources*
14 *Recycling and Recovery* in accordance with the following schedule:

15 (A) For any jurisdiction with less than eight years of remaining
16 disposal site capacity, the source reduction and recycling element
17 and the nondisposal facility element shall be submitted on or before
18 April 30, 1994.

19 (B) For any jurisdiction with eight or more years, but less than
20 15 years, of remaining disposal site capacity, the source reduction
21 and recycling element and the nondisposal facility element shall
22 be submitted on or before August 31, 1994.

23 (C) For any jurisdiction with 15 or more years of remaining
24 disposal site capacity, the source reduction and recycling element
25 and the nondisposal facility element shall be submitted on or before
26 December 31, 1994.

27 (2) For purposes of this section, “remaining disposal site
28 capacity” means capacity remaining as of January 1, 1990. For
29 each jurisdiction, disposal site capacity shall be deemed to be the
30 countywide permitted disposal site capacity.

31 (3) Notwithstanding Section 41791, a county or regional agency
32 that has adopted a countywide or regional agency integrated waste
33 management plan may submit the plan and its elements to the
34 ~~board~~ *Department of Toxics and Waste Management and the*
35 *Department of Resources Recycling and Recovery* for review and
36 approval pursuant to the schedule set forth in paragraph (1).

37 (b) A city which is incorporated after January 1, 1990, shall
38 submit a source reduction and recycling element, a household
39 hazardous waste element, and a nondisposal facility element to
40 the ~~board~~ *Department of Toxics and Waste Management and the*

1 *Department of Resources Recycling and Recovery* for approval
2 within 18 months from the date that the city was incorporated or
3 within 18 months of the effective date of this section, whichever
4 is later.

5 *SEC. 109. Section 41794 of the Public Resources Code is*
6 *amended to read:*

7 41794. Any city may submit its city source reduction and
8 recycling element or nondisposal facility element to the ~~board~~
9 *Department of Toxics and Waste Management and the Department*
10 *of Resources Recycling and Recovery* for review before the dates
11 in the schedule in Section 41791.5.

12 *SEC. 110. The heading of Article 1 (commencing with Section*
13 *41800) of Chapter 7 of Part 2 of Division 30 of the Public*
14 *Resources Code is amended to read:*

15
16 Article 1. ~~Board~~ *Department of Toxics and Waste Management*
17 *and the Department of Resources Recycling and Recovery*
18 Approval
19

20 *SEC. 111. Section 41800 of the Public Resources Code is*
21 *amended to read:*

22 41800. (a) Except as provided in subdivision (b), within 120
23 days from the date of receipt of a countywide or regional integrated
24 waste management plan which the ~~board~~ *Department of Toxics*
25 *and Waste Management or the Department of Resources Recycling*
26 *and Recovery* has determined to be complete, or any element of
27 the plan which the ~~board~~ *Department of Toxics and Waste*
28 *Management or the Department of Resources Recycling and*
29 *Recovery* has determined to be complete, the ~~board~~ *Department*
30 *of Toxics and Waste Management or the Department of Resources*
31 *Recycling and Recovery* shall determine whether the plan or
32 element is in compliance with Article 2 (commencing with Section
33 40050) of Chapter 1 of Part 1, Chapter 2 (commencing with Section
34 41000), and Chapter 5 (commencing with Section 41750), and,
35 based upon that determination, the ~~board~~ *Department of Toxics*
36 *and Waste Management or the Department of Resources Recycling*
37 *and Recovery* shall approve, conditionally approve, or disapprove
38 the plan or element.

39 (b) (1) Within 120 days from the date of receipt of a city,
40 county, or regional agency nondisposal facility element, which the

1 ~~board~~ Department of Toxics and Waste Management or the
2 Department of Resources Recycling and Recovery has determined
3 to be complete, and within 60 days from the date of receipt of an
4 amendment to a city, county, or regional agency nondisposal
5 facility element, the ~~board~~ Department of Toxics and Waste
6 Management or the Department of Resources Recycling and
7 Recovery shall determine whether the element, which the ~~board~~
8 Department of Toxics and Waste Management or the Department
9 of Resources Recycling and Recovery has determined to be
10 complete, or amendment is in compliance with Chapter 4.5
11 (commencing with Section 41730) and Article 1 (commencing
12 with Section 41780) of Chapter 6, and, based upon that
13 determination, the ~~board~~ Department of Toxics and Waste
14 Management or the Department of Resources Recycling and
15 Recovery shall approve, conditionally approve, or disapprove the
16 element or amendment within that time period.

17 (2) In reviewing the element or amendment, the ~~board~~
18 Department of Toxics and Waste Management or the Department
19 of Resources Recycling and Recovery shall:

20 (A) Not consider the estimated capacity of the facility or
21 facilities in the element or amendment unless the ~~board~~ Department
22 of Toxics and Waste Management or the Department of Resources
23 Recycling and Recovery determines that this information is needed
24 to determine whether the element or amendment meets the
25 requirements of Article 1 (commencing with Section 41780) of
26 Chapter 6.

27 (B) Recognize that individual facilities represent portions of
28 local plans or programs that are designed to achieve the diversion
29 requirements of Section 41780 and therefore may not arbitrarily
30 require new or expanded diversion at proposed facilities.

31 (C) Not disapprove an element or amendment that includes a
32 transfer station or other facility solely because the facility does
33 not contribute towards the jurisdiction's efforts to comply with
34 Section 41780.

35 (c) If the ~~board~~ Department of Toxics and Waste Management
36 or the Department of Resources Recycling and Recovery does not
37 act to approve, conditionally approve, or disapprove an element
38 ~~which that the board~~ Department of Toxics and Waste Management
39 or the Department of Resources Recycling and Recovery has
40 determined to be complete within 120 days, or an amendment

1 ~~which the board~~ that the Department of Toxics and Waste
2 Management or the Department of Resources Recycling and
3 Recovery has determined to be complete within 60 days, the ~~board~~
4 Department of Toxics and Waste Management or the Department
5 of Resources Recycling and Recovery shall be deemed to have
6 approved the element or amendment.

7 SEC. 112. Section 41801 of the Public Resources Code is
8 amended to read:

9 41801. Before approving or conditionally approving a
10 countywide or regional integrated waste management plan, or any
11 element of the plan, pursuant to Section 41800, the ~~board~~
12 Department of Toxics and Waste Management or the Department
13 of Resources Recycling and Recovery shall adopt written findings,
14 based on substantial evidence in the record, that implementing the
15 plan or element will achieve the requirements established pursuant
16 to this part, including the diversion requirements of Section 41780.

17 SEC. 113. Section 41801.5 of the Public Resources Code is
18 amended to read:

19 41801.5. (a) If an element submitted to the ~~board~~ Department
20 of Resources Recycling and Recovery for final review includes the
21 diversion of any solid wastes specified in subdivision (c) of Section
22 41781.2 for years preceding the year commencing January 1, 1990,
23 and the ~~board~~ Department of Resources Recycling and Recovery
24 is unable to determine whether the requirements of Section 41781.2
25 have been met, the ~~board~~ Department of Resources Recycling and
26 Recovery shall notify the city, county, or regional agency that the
27 diversion is excluded for purposes of calculating compliance with
28 Section 41780. The ~~board~~ Department of Resources Recycling and
29 Recovery shall notify the city, county, or regional agency of the
30 exclusion within 60 days from the date of receipt of the element
31 for final review. If an element has been submitted to the ~~board~~
32 Department of Resources Recycling and Recovery for final review
33 prior to January 1, 1993, the ~~board~~ Department of Resources
34 Recycling and Recovery shall notify the submitting city, county,
35 or regional agency of the exclusion on or before March 1, 1993.

36 (b) The notice shall be based upon a summary review undertaken
37 solely for the purpose of determining whether the source reduction
38 and recycling element includes any diversion of wastes excluded
39 by Section 41781.2, and whether the element contains information
40 sufficient for the ~~board~~ Department of Resources Recycling and

1 *Recovery* to determine whether the requirements of that section
2 have been met. The summary review and notice shall be undertaken
3 by the ~~board~~ *Department of Resources Recycling and Recovery*
4 concurrent with the ~~board's~~ *Department of Resources Recycling*
5 *and Recovery's* review and approval, conditional approval, or
6 disapproval of source reduction and recycling elements pursuant
7 to Section 41800.

8 (c) The ~~board~~ *Department of Resources Recycling and Recovery*
9 shall approve or conditionally approve the source reduction and
10 recycling element, if wastes have been excluded pursuant to Section
11 41781.2, if the ~~board~~ *Department of Resources Recycling and*
12 *Recovery* finds, pursuant to Section 41801, that, notwithstanding
13 that exclusion, the element will achieve the requirements
14 established pursuant to this part, including the diversion
15 requirements of Section 41780.

16 (d) If the source reduction and recycling element is approved
17 or conditionally approved pursuant to this section, the city, county,
18 or regional agency shall revise the element to reflect the excluded
19 wastes and shall submit any such revisions to the ~~board~~ *Department*
20 *of Resources Recycling and Recovery* pursuant to Section 41822.

21 *SEC. 114. Section 41802 of the Public Resources Code is*
22 *amended to read:*

23 41802. (a) Within 120 days from the date of receipt of a
24 household hazardous waste element, the ~~board~~ *Department of*
25 *Toxics and Waste Management* shall approve or disapprove the
26 element.

27 (b) The ~~board~~ *Department of Toxics and Waste Management*
28 shall not disapprove a household hazardous waste element if the
29 local agency preparing the element demonstrates to the ~~board~~
30 *Department of Toxics and Waste Management* that, in
31 implementing the household hazardous waste element, the local
32 agency will comply with all of the following requirements:

33 (1) The local agency will use feasible methods to properly
34 reduce, collect, recycle, treat, and dispose of household hazardous
35 waste generated within its jurisdiction.

36 (2) The local agency will devote reasonable expenditures to the
37 safe reduction, collection, recycling, treatment, and disposal of
38 household hazardous waste, relative to the other expenditures
39 required by this division, and relative to the expenditures for

1 household hazardous waste programs which were awarded grants
2 of funds pursuant to Section 46401 as it read on January 1, 1993.

3 (3) The local agency will make all reasonable efforts to inform
4 the public of, and to encourage public participation in, the
5 household hazardous waste program.

6 (4) Regardless of the number of household hazardous waste
7 collection events held each year by a local agency, or the actual
8 number of households served, the collection program is available
9 for use by all households within the jurisdiction of the local agency,
10 and provides a safe alternative for all residents within the
11 jurisdiction of the local agency to properly and safely dispose of
12 household hazardous waste.

13 (c) (1) In determining whether a local agency meets the
14 conditions for approval of a household hazardous waste element
15 set forth in subdivision (b), the ~~board~~ *Department of Toxics and*
16 *Waste Management* shall consider the geographic size and
17 population of the city or county and the quantity of household
18 hazardous waste generated within the jurisdiction of the city or
19 county.

20 (2) The ~~board~~ *Department of Toxics and Waste Management*
21 may provide an exemption from the requirements of subdivision
22 (b) if a city, county, or a regional agency demonstrates, and the
23 ~~board~~ *Department of Toxics and Waste Management* concurs, that
24 compliance with those requirements is not feasible due to the small
25 geographic size of the city, county, or regional agency and the
26 small quantity of solid waste generated within the city, county, or
27 regional agency. The ~~board~~ *Department of Toxics and Waste*
28 *Management* may establish alternative, but less comprehensive,
29 requirements for those cities, counties, or regional agencies to
30 ensure compliance with this division.

31 *SEC. 115. Section 41810 of the Public Resources Code is*
32 *amended to read:*

33 41810. (a) If the ~~board~~ *Department of Toxics and Waste*
34 *Management or the Department of Resources Recycling and*
35 *Recovery* conditionally approves a countywide or regional
36 integrated waste management plan, or any element of the plan, the
37 ~~board~~ *Department of Toxics and Waste Management or the*
38 *Department of Resources Recycling and Recovery* shall issue a
39 notice of conditional approval to the city, county, or regional
40 agency which identifies the specific reasons for the conditional

1 approval. The notice of conditional approval shall include specific
2 recommendations on how to correct the remaining deficiencies in
3 the plan or element.

4 (b) If the ~~board~~ *Department of Toxics and Waste Management*
5 *or the Department of Resources Recycling and Recovery*
6 disapproves a countywide or regional integrated waste management
7 plan, or any element of the plan, the ~~board~~ *Department of Toxics*
8 *and Waste Management or the Department of Resources Recycling*
9 *and Recovery* shall issue a notice of deficiency to the city, county,
10 or regional agency which identifies the specific reasons for the
11 disapproval. The notice of deficiency shall include specific
12 recommendations on how to correct the deficiencies in the plan
13 or element.

14 *SEC. 116. Section 41810.1 of the Public Resources Code is*
15 *amended to read:*

16 41810.1. (a) Any city, county, or regional agency ~~which~~ *that*
17 receives a notice of conditional approval for a countywide or
18 regional integrated waste management plan, or any element of the
19 plan, pursuant to subdivision (a) of Section 41810, shall, within
20 60 days from the date of receipt of the notice of conditional
21 approval, submit a compliance schedule to the ~~board~~ *Department*
22 *of Toxics and Waste Management or the Department of Resources*
23 *Recycling and Recovery* that demonstrates how the city, county,
24 or regional agency will correct the deficiencies identified in the
25 notice of conditional approval by the earliest feasible date, but in
26 no event shall that correction take longer to make than one year
27 from the date of submission of the compliance schedule.

28 (b) The ~~board~~ *Department of Toxics and Waste Management*
29 *or the Department of Resources Recycling and Recovery* shall
30 approve or disapprove a compliance schedule submitted pursuant
31 to subdivision (a) within 60 days from the date of its receipt of the
32 schedule.

33 (c) If the ~~board~~ *Department of Toxics and Waste Management*
34 *or the Department of Resources Recycling and Recovery*
35 determines, based on substantial evidence in the record, that a city,
36 county, or regional agency is not in compliance with a compliance
37 schedule approved pursuant to subdivision (b), the ~~board~~
38 *Department of Toxics and Waste Management or the Department*
39 *of Resources Recycling and Recovery* may revoke the notice of

1 conditional approval, and shall issue a notice of deficiency pursuant
2 to subdivision (b) of Section 41810.

3 (d) It is the intent of the Legislature that a notice of conditional
4 approval shall provide flexibility for a city, county, or regional
5 agency to make substantial progress towards meeting the
6 requirements of this part while ensuring full compliance with this
7 part at the earliest feasible date.

8 *SEC. 117. Section 41811 of the Public Resources Code is*
9 *amended to read:*

10 41811. Within 120 days of receipt of the notice of deficiency
11 issued pursuant to Section 41810, the city or county shall correct
12 the deficiencies, readopt, and resubmit the city source reduction
13 and recycling element or the countywide integrated waste
14 management plan to the ~~board~~ *Department of Toxics and Waste*
15 *Management or the Department of Resources Recycling and*
16 *Recovery.*

17 *SEC. 118. Section 41811.5 of the Public Resources Code is*
18 *amended to read:*

19 41811.5. (a) If the ~~board~~ *Department of Toxics and Waste*
20 *Management or the Department of Resources Recycling and*
21 *Recovery* disapproves an element for which a city, county, or
22 regional agency has received a notification of excluded wastes
23 pursuant to Section 41801.5, the city, county, or regional agency
24 may, concurrent with the procedures specified in Section 41811,
25 submit additional information to substantiate that the requirements
26 of Section 41781.2 have been met. The additional information
27 shall be submitted to the ~~board~~ *Department of Toxics and Waste*
28 *Management or the Department of Resources Recycling and*
29 *Recovery* within 60 days of disapproval of the element.

30 (b) Following the receipt of additional information pursuant to
31 subdivision (a) the ~~board~~ *Department of Resources Recycling and*
32 *Recovery* shall determine, within 60 days, whether all, or a portion
33 of, the excluded waste will be included in the source reduction and
34 recycling element for purposes of calculating compliance with
35 Section 41780.

36 (c) Based upon the ~~board's~~ *Department of Resources Recycling*
37 *and Recovery's* determination pursuant to subdivision (b), the city,
38 county, or regional agency shall revise its source reduction and
39 recycling element to correct any deficiencies resulting from the
40 exclusion of wastes pursuant to Section 41781.2, and shall resubmit

1 the element to the ~~board~~ *Department of Resources Recycling and*
2 *Recovery*. The element shall be resubmitted within 120 days of a
3 ~~board~~ *Department of Resources Recycling and Recovery*
4 determination pursuant to subdivision (b). Notwithstanding Section
5 41811, if an element is disapproved pursuant to Section 41800,
6 and the notice of deficiency issued pursuant to Section 41810
7 identifies reasons for disapproval, including, but not limited to,
8 noncompliance with Section 41781.2, the city, county, or regional
9 agency shall correct all deficiencies, and readopt and resubmit the
10 element to the ~~board~~ *Department of Resources Recycling and*
11 *Recovery* pursuant to the requirements of this section.

12 (d) In revising the source reduction and recycling element to
13 address deficiencies arising from noncompliance with Section
14 41781.2, a city, county, or regional agency may limit the revisions
15 to an identification and description of the specific measures that
16 will be undertaken to achieve compliance with Section 41780.

17 (e) If a city, county, or regional agency is unable to resubmit
18 the source reduction and recycling element within 120 days, the
19 ~~board~~ *Department of Resources Recycling and Recovery* may, on
20 a case-by-case basis, extend the deadline imposed by subdivision
21 (c) for submittal of a revised element.

22 *SEC. 119. Section 41812 of the Public Resources Code is*
23 *amended to read:*

24 41812. If the ~~board~~ *Department of Toxics and Waste*
25 *Management or the Department of Resources Recycling and*
26 *Recovery* determines that the revised city, county, or regional
27 agency source reduction and recycling element or the countywide
28 or regional agency integrated waste management plan submitted
29 pursuant to Section 41811 or 41811.5 still fails to meet the
30 requirements of this part, the ~~board~~ *Department of Toxics and*
31 *Waste Management or the Department of Resources Recycling*
32 *and Recovery* shall conduct a public hearing for the purpose of
33 hearing testimony on the plan or element and the deficiencies
34 identified by the ~~board~~ *Department of Toxics and Waste*
35 *Management or the Department of Resources Recycling and*
36 *Recovery*.

37 *SEC. 120. Section 41813 of the Public Resources Code is*
38 *amended to read:*

39 41813. (a) After conducting a public hearing pursuant to
40 Section 41812, the ~~board~~ *Department of Toxics and Waste*

1 *Management or the Department of Resources Recycling and*
2 *Recovery* may impose administrative civil penalties of not more
3 than ten thousand dollars (\$10,000) per day on any city or county,
4 or, pursuant to Section 40974, on any city or county as a member
5 of a regional agency, which fails to submit an adequate element
6 or plan in accordance with the requirements of this chapter.

7 (b) ~~The board~~ *Department of Toxics and Waste Management*
8 *or the Department of Resources Recycling and Recovery* shall not
9 impose any penalty against a city or county pursuant to this section
10 if the city or county is in substantial compliance with this part and
11 if those aspects of a plan or element of a plan submitted by a city,
12 county, or regional agency which is not in compliance with this
13 part do not directly or substantially affect achievement of the
14 diversion requirements of Section 41780.

15 (c) In determining whether a city, county, or regional agency
16 is in substantial compliance, ~~the board~~ *Department of Toxics and*
17 *Waste Management or the Department of Resources Recycling*
18 *and Recovery* shall consider whether the city, county, or regional
19 agency has made a good faith effort to implement all reasonable
20 and feasible measures to comply.

21 (d) ~~The board~~ *Department of Toxics and Waste Management*
22 *or the Department of Resources Recycling and Recovery* shall not
23 use the money collected from the penalties imposed pursuant to
24 subdivision (a) for administrative purposes. ~~The board~~ *Department*
25 *of Toxics and Waste Management or the Department of Resources*
26 *Recycling and Recovery* shall use the money collected from the
27 penalties imposed pursuant to subdivision (a), to the extent
28 possible, to assist local governments in meeting the requirements
29 of this part.

30 *SEC. 121. Section 41820.5 of the Public Resources Code is*
31 *amended to read:*

32 41820.5. (a) In addition to its authority under Section 41820,
33 ~~the board~~ *Department of Resources Recycling and Recovery* may,
34 after a public hearing, grant a time extension from the diversion
35 requirements of Section 41780 to a city if both of the following
36 conditions exist:

37 (1) The city was incorporated pursuant to Division 3
38 (commencing with Section 56000) of Title 5 of the Government
39 Code after January 1, 1990, and before January 1, 2001.

(2) The county within which the city is located did not include provisions in its franchises that ensured that the now incorporated area would comply with the diversion requirements of Section 41780.

(b) The ~~board~~ *Department of Resources Recycling and Recovery* may authorize a city that meets the requirements of subdivision (a) to submit a source reduction and recycling element that includes an implementation schedule that shows both of the following:

(1) The city shall divert 25 percent of its estimated generation amount of solid waste from landfill or transformation facilities within three years from the date on which the source reduction and recycling element is due pursuant to subdivision (b) of Section 41791.5, through source reduction, recycling, and composting activities.

(2) The city shall divert 50 percent of its estimated generation amount of solid waste from landfill or transformation facilities within eight years from the date on which the source reduction and recycling element is due pursuant to subdivision (b) of Section 41791.5, through source reduction, recycling, and composting activities.

SEC. 122. Section 41820.6 of the Public Resources Code is amended to read:

41820.6. (a) In addition to its authority under Section 41820, the ~~board~~ *Department of Toxics and Waste Management or the Department of Resources Recycling and Recovery* may, after a public hearing, grant a time extension from the requirements of Section 41780 to a city if both of the following conditions exist:

(1) The city was incorporated pursuant to Division 3 (commencing with Section 56000) of Title 5 of the Government Code on or after January 1, 2001.

(2) The county within which the city is located did not include provisions in its franchises that ensured that the now incorporated area would comply with the requirements of Section 41780.

(b) The ~~board~~ *Department of Resources Recycling and Recovery* may authorize a city that meets the requirements of subdivision (a) to submit a source reduction and recycling element that includes an implementation schedule that shows that the city shall comply with the requirements of Section 41780, within three years from the date on which the source reduction and recycling element is

1 due pursuant to subdivision (b) of Section 41791.5, through source
2 reduction, recycling, and composting activities.

3 *SEC. 123. Section 41821 of the Public Resources Code is*
4 *amended to read:*

5 41821. (a) (1) Each year following the ~~board's~~ *Department*
6 *of Toxics and Waste Management or the Department of Resources*
7 *Recycling and Recovery's* approval of a jurisdiction's source
8 reduction and recycling element, household hazardous waste
9 element, and nondisposal facility element, the jurisdiction shall
10 submit a report to the ~~board~~ *Department of Toxics and Waste*
11 *Management or the Department of Resources Recycling and*
12 *Recovery* summarizing its progress in reducing solid waste as
13 required by Section 41780, in accordance with the schedule set
14 forth in this subdivision.

15 (2) The annual report shall be due on or before August 1 of the
16 year following ~~board~~ *Department of Toxics and Waste Management*
17 *or the Department of Resources Recycling and Recovery* approval
18 of the source reduction and recycling element, the household
19 hazardous waste element, and the nondisposal facility element,
20 and on or before August 1 in each subsequent year. The information
21 in this report shall encompass the previous calendar year, January
22 1 to December 31, inclusive.

23 (b) Each jurisdiction's annual report to the ~~board~~ *Department*
24 *of Toxics and Waste Management or the Department of Resources*
25 *Recycling and Recovery* shall, at a minimum, include the following:

26 (1) Calculations of annual disposal reduction.

27 (2) A summary of progress made in implementing the source
28 reduction and recycling element and the household hazardous
29 waste element.

30 (3) An update of the jurisdiction's source reduction and
31 recycling element and household hazardous waste element to
32 include any new or expanded programs the jurisdiction has
33 implemented or plans to implement.

34 (4) An update of the jurisdiction's nondisposal facility element
35 to reflect any new or expanded nondisposal facilities the
36 jurisdiction is using or planning to use.

37 (5) A summary of progress made in diversion of construction
38 and demolition of waste material, including information on
39 programs and ordinances implemented by the local government
40 and quantitative data, where available.

1 (6) Other information relevant to compliance with Section
2 41780.

3 (c) A jurisdiction may also include, in the report required by
4 this section, all of the following:

5 (1) Information on disposal reported pursuant to Section 41821.5
6 that the jurisdiction believes may be relevant to the ~~board's~~
7 *Department of Resources Recycling and Recovery's* determination
8 of the jurisdiction's per capita disposal rate.

9 (2) Disposal characterization studies or other completed studies
10 that show the effectiveness of the programs being implemented.

11 (3) Factors that the jurisdiction believes would affect the
12 accuracy of, or mitigate the amount of, solid waste disposed by
13 the jurisdiction, including, but not limited to, either of the
14 following:

15 (A) Whether the jurisdiction hosts a solid waste facility or
16 regional diversion facility.

17 (B) The effects of self-hauled waste and construction and
18 demolition waste.

19 (4) The extent to which the jurisdiction previously relied on
20 biomass diversion credit and the extent to which it may be impacted
21 by the lack of the credit.

22 (5) Information regarding the programs the jurisdiction is
23 undertaking to address specific disposal challenges, and why it is
24 not feasible to implement programs to respond to other factors that
25 affect the amount of waste that is disposed.

26 (6) Other information that describes the good faith efforts of
27 the jurisdiction to comply with Section 41780.

28 (d) The ~~board~~ *Department of Resources Recycling and Recovery*
29 shall use, but is not limited to the use of, the annual report in the
30 determination of whether the jurisdiction's source reduction and
31 recycling element needs to be revised or updated.

32 (e) (1) The ~~board~~ *Department of Resources Recycling and*
33 *Recovery* shall adopt procedures for requiring additional
34 information in a jurisdiction's annual report. The procedures shall
35 require the ~~board~~ *Department of Resources Recycling and Recovery*
36 to notify a jurisdiction of any additional required information no
37 later than 120 days after the ~~board~~ *Department of Resources*
38 *Recycling and Recovery* receives the report from the jurisdiction.

39 (2) Paragraph (1) does not prohibit the ~~board~~ *Department of*
40 *Resources Recycling and Recovery* from making additional requests

1 for information in a timely manner. A jurisdiction receiving a
2 request for information shall respond in a timely manner.

3 (3) If the schedule for the submission of an annual report by a
4 jurisdiction does not correspond with the scheduled review by the
5 ~~board~~ *Department of Resources Recycling and Recovery* specified
6 in subdivision (a) of Section 41825, the ~~board~~ *Department of*
7 *Resources Recycling and Recovery* shall utilize the information
8 contained in the annual report to assist the ~~board~~ *Department of*
9 *Resources Recycling and Recovery* in providing technical assistance
10 and reviewing the jurisdiction's diversion program implementation.

11 (f) The ~~board~~ *Department of Resources Recycling and Recovery*
12 shall adopt procedures for conferring with a jurisdiction regarding
13 the implementation of its diversion programs.

14 (g) Notwithstanding the Uniform Electronic Transactions Act
15 (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division
16 3 of the Civil Code), a jurisdiction shall submit the progress report
17 required by this section to the ~~board~~ *Department of Resources*
18 *Recycling and Recovery* electronically, using the ~~board's~~
19 *Department of Resources Recycling and Recovery's* electronic
20 reporting format system.

21 (h) Notwithstanding the reporting schedule required by this
22 section, and in addition to the review required by Section 41825,
23 the ~~board~~ *Department of Resources Recycling and Recovery* shall
24 visit each jurisdiction not less than once each year to monitor the
25 jurisdiction's implementation and maintenance of its diversion
26 programs.

27 *SEC. 124. Section 41821.1 of the Public Resources Code is*
28 *amended to read:*

29 41821.1. (a) Each year following the ~~board's~~ *Department of*
30 *Toxics and Waste Management's* approval of a county or regional
31 agency's siting element and summary plan, the county or regional
32 agency shall submit a report to the ~~board~~ *Department of Toxics*
33 *and Waste Management* summarizing the adequacy of the siting
34 element and summary plan. The report on the siting element shall
35 discuss any changes in disposal capacity, disposal facilities, or any
36 other relevant issues. The annual report shall be due on or before
37 August 1 of the year following ~~board~~ *Department of Toxics and*
38 *Waste Management* approval of a county or regional agency's
39 siting element and summary plan, and on or before August 1 in
40 each subsequent year. The information in this report shall

1 encompass the previous calendar year, January 1 to December 31,
2 inclusive.

3 (b) ~~The board~~ *Department of Toxics and Waste Management*
4 shall adopt procedures that may authorize a jurisdiction to submit
5 an abbreviated version of the report required pursuant to this
6 section, if the ~~board~~ *Department of Toxics and Waste Management*
7 determines that the jurisdiction has met or exceeded the
8 requirements of paragraph (2) of subdivision (a) of Section 41780
9 for the previous two years, and if the ~~board~~ *Department of Toxics*
10 *and Waste Management* determines that the jurisdiction has
11 otherwise complied with this division for the previous five years.

12 *SEC. 125. Section 41821.2 of the Public Resources Code is*
13 *amended to read:*

14 41821.2. (a) For the purposes of this section, “district” means
15 a community services district, public utility district, or sanitary
16 district that provides solid waste handling services or implements
17 source reduction and recycling programs.

18 (b) Notwithstanding any other law, each district shall do all of
19 the following:

20 (1) Comply with the source reduction and recycling element
21 and the household hazardous waste element of the city, county, or
22 regional agency in which the district is located, as required by the
23 city, county, or regional agency. The city, county, or regional
24 agency shall notify a district of any program that it is implementing
25 or modifying when it annually submits a report to the ~~board~~
26 *Department of Toxics and Waste Management or the Department*
27 *of Resources Recycling and Recovery* pursuant to Section 41821.

28 (2) Provide each city, county, or regional agency in which it is
29 located, information on the programs implemented by the district,
30 the amount of waste disposed and reported to the disposal tracking
31 system pursuant to Section 41821.5 for each city, county, or
32 regional agency, and the amount of waste diverted by the district
33 for each city, county, or regional agency.

34 (c) ~~The board~~ *Department of Toxics and Waste Management*
35 *or the Department of Resources Recycling and Recovery* may
36 adopt regulations pertaining to the format of the information to be
37 provided pursuant to paragraph (2) of subdivision (b) and deadlines
38 for supplying this information to the city, county, or regional
39 agency, so that it may be incorporated into the annual report
40 submitted to the ~~board~~ *Department of Toxics and Waste*

1 *Management or the Department of Resources Recycling and*
2 *Recovery pursuant to Section 41821.*

3 (d) A district is subject to the portion of a penalty imposed,
4 pursuant to Section 41850, upon a city, county, or regional agency
5 in which the district is located, that is in proportion to the district's
6 responsibility for failure to implement that jurisdiction's source
7 reduction and recycling element and household hazardous waste
8 element, as determined by that city, county, or regional agency.
9 ~~The board~~ *Department of Toxics and Waste Management or the*
10 *Department of Resources Recycling and Recovery* shall not
11 determine the proportion of a district's responsibility as part of its
12 determination to impose penalties. The city, county, or regional
13 agency shall provide the district with a written notice regarding
14 the district's responsibility, including the basis for determining
15 the district's proportional responsibility, and an opportunity for
16 hearing before the city, county, or regional agency's governing
17 body, before assessing the district a proportion of the penalty
18 imposed by ~~the board~~ *Department of Toxics and Waste*
19 *Management or the Department of Resources Recycling and*
20 *Recovery.*

21 (e) A district may impose a fee in an amount sufficient to pay
22 for the costs of complying with this section. The fees shall be
23 assessed and collected in the same manner as the fees imposed
24 pursuant to Sections 41901 and 41902.

25 *SEC. 126. Section 41821.3 of the Public Resources Code is*
26 *amended to read:*

27 41821.3. (a) For the purposes of this section the following
28 definitions shall apply:

29 (1) "Inert waste" means only rock, concrete, brick, sand, soil,
30 ceramics, and cured asphalt. "Inert waste" does not include any
31 waste that meets the definition of "designated waste," as defined
32 in Section 13173 of the Water Code, or "hazardous waste" as
33 defined in Section 40141.

34 (2) "Inert waste removed from the solid waste stream and not
35 disposed of in a solid waste landfill" means the use or placement
36 of inert waste on property where surface mining operations, as
37 defined in Section 2735, are being conducted, or have been
38 conducted previously, if the use or placement is for purposes of
39 reclamation, as defined in Section 2733, pursuant to either of the
40 following:

1 (A) A reclamation plan approved under Section 2774.

2 (B) For surface mining operations conducted prior to January
3 1, 1976, an agreement with a city or county, or a permit issued by
4 a city or county, that provides for a fill appropriately engineered
5 for the planned future use of the reclaimed mine site.

6 (3) “Jurisdiction” means a city, county, or regional agency.

7 (b) A jurisdiction shall deduct, from the amount of disposed
8 waste that is required to be included in the annual report submitted
9 to the ~~board~~ *Department of Resources Recycling and Recovery*
10 pursuant to subdivision (b) of Section 41821, inert waste removed
11 from the solid waste stream and not disposed of in a solid waste
12 landfill, as defined in paragraph (2) of subdivision (a). A
13 jurisdiction shall deduct this inert waste only in accordance with
14 the procedures specified in subdivisions (c) to (e), inclusive,
15 commencing with the report submitted by the jurisdiction to the
16 ~~board for the year 2001~~ *Department of Toxics and Waste*
17 *Management or the Department of Resources Recycling and*
18 *Recovery*.

19 (c) (1) A jurisdiction shall deduct inert waste pursuant to
20 subdivision (b) from its reported disposal tonnage for the year
21 2001, and shall identify, in the jurisdiction’s annual report, that
22 the deduction is being made pursuant to this section and the exact
23 amount of the deduction.

24 (2) The ~~board~~ *Department of Resources Recycling and Recovery*
25 shall verify that the deduction made pursuant to paragraph (1) is
26 consistent with the requirements of this section and the amount
27 deducted is consistent with the amount reported through the ~~board’s~~
28 *Department of Resources Recycling and Recovery* disposal
29 reporting system. The ~~board~~ *Department of Resources Recycling*
30 *and Recovery* shall approve the deduction made by the jurisdiction
31 upon making this verification.

32 (3) If the ~~board~~ *Department of Resources Recycling and*
33 *Recovery* finds that the amount deducted pursuant to paragraph
34 (1) does not meet the requirements of this section, or if the amount
35 deducted is not consistent with the amount reported through the
36 ~~board’s~~ *Department of Resources Recycling and Recovery’s*
37 disposal reporting system, the ~~board~~ *Department of Resources*
38 *Recycling and Recovery* shall notify the jurisdiction of its
39 preliminary determination and confer with representatives of the
40 jurisdiction to reach an agreement regarding the amount of the

deduction. If the jurisdiction agrees upon the amount of the deduction, the ~~board~~ *Department of Resources Recycling and Recovery* shall approve the deduction as modified. If the ~~board~~ *Department of Resources Recycling and Recovery* and the jurisdiction are unable to reach agreement upon the amount of the deduction, the jurisdiction may request a hearing before the ~~board~~ *Department of Resources Recycling and Recovery* to obtain a final determination.

(d) (1) A jurisdiction shall deduct tonnage from its base-year disposal in an amount equal to the amount deducted from the jurisdiction's 2001 disposal tonnage pursuant to this section. The jurisdiction shall not deduct an amount from its base-year disposal tonnage that is greater than the amount of disposed inert waste that was included in its most recent ~~board-approved~~ *Department of Resources Recycling and Recovery-approved* revised base-year approved by the ~~board~~ *Department of Resources Recycling and Recovery*.

(2) The ~~board~~ *Department of Resources Recycling and Recovery* shall verify that the base-year deduction made pursuant to paragraph (1) is consistent with the requirements of this section. The ~~board~~ *Department of Resources Recycling and Recovery* shall approve the revised base-year disposal tonnage upon making this verification.

(3) If the ~~board~~ *Department of Resources Recycling and Recovery* finds that the base-year deduction requested pursuant to paragraph (1) is not consistent with the requirements of this section, the ~~board~~ *Department of Resources Recycling and Recovery* shall notify the jurisdiction of its preliminary determination and confer with representatives of the jurisdiction in order to reach agreement regarding the amount of the deduction. If the jurisdiction agrees upon the amount of the deduction, the ~~board~~ *Department of Resources Recycling and Recovery* shall approve the revised base-year disposal tonnage accordingly. If the ~~board~~ *Department of Resources Recycling and Recovery* and the jurisdiction are unable to reach agreement upon the amount of the deduction, the jurisdiction may request a hearing before the ~~board~~ *Department of Resources Recycling and Recovery* to obtain a final determination.

(e) (1) A jurisdiction shall deduct all inert waste from its reported disposal tonnage in all of its annual reports for all

1 subsequent years. The ~~board~~ *Department of Resources Recycling*
2 *and Recovery* shall verify this deduction pursuant to paragraphs
3 (2) and (3) of subdivision (c).

4 (2) If the ~~board~~ *Department of Resources Recycling and*
5 *Recovery* approves the jurisdiction's revised base-year disposal
6 tonnage pursuant to subdivision (d), the revised base year disposal
7 tonnage shall not be subsequently revised for inert waste under
8 this section.

9 (f) This section does not limit the authority of the ~~board~~
10 *Department of Resources Recycling and Recovery* to require any
11 facility that uses or places inert material on property where surface
12 mining operations are being conducted, or have been conducted
13 previously, to report to the ~~board~~ *Department of Resources*
14 *Recycling and Recovery* on the quantities of inert material used or
15 placed on the property for the purpose of reclamation.

16 (g) It is the intent of the Legislature that a city, county, or
17 regional agency not be required to revise its source reduction and
18 recycling element to comply with this section unless the city,
19 county, or regional agency elects to implement this section as
20 authorized by this section.

21 (h) This section shall become inoperative on the operative date
22 of any regulation adopted by the ~~board~~ *Department of Resources*
23 *Recycling and Recovery* relating to "inert waste removed from the
24 solid waste stream and not disposed of in a solid waste landfill,"
25 as defined in paragraph (2) of subdivision (a), if that regulation
26 includes procedures to facilitate the counting of the inert waste for
27 purposes of the disposal reporting system established under Section
28 41821.5 when that inert waste is placed in a mine reclamation
29 facility as fill material, and, as of January 1 immediately following
30 that operative date, is repealed, unless a later enacted statute that
31 is enacted before that January 1 deletes or extends the dates on
32 which it becomes inoperative and is repealed.

33 *SEC. 127. Section 41821.5 of the Public Resources Code is*
34 *amended to read:*

35 41821.5. (a) Disposal facility operators shall submit to counties
36 information from periodic tracking surveys on the disposal
37 tonnages by jurisdiction or region of origin that are disposed of at
38 each disposal facility. To enable disposal facility operators to
39 provide that information, solid waste handlers and transfer station
40 operators shall provide information to disposal facility operators

1 on the origin of the solid waste that they deliver to the disposal
2 facility.

3 (b) Recycling and composting facilities shall submit periodic
4 information to counties on the types and quantities of materials
5 that are disposed of, sold to end users, or that are sold to exporters
6 or transporters for sale outside of the state, by county of origin.
7 When materials are sold or transferred by one recycling or
8 composting facility to another, for other than an end use of the
9 material or for export, the seller or transferrer of the material shall
10 inform the buyer or transferee of the county of origin of the
11 materials. The reporting requirements of this subdivision do not
12 apply to entities that sell the byproducts of a manufacturing
13 process.

14 (c) Each county shall submit periodic reports to the cities within
15 the county, to any regional agency of which it is a member agency,
16 and to the ~~board~~ *Department of Toxics and Waste Management or*
17 *the Department of Resources Recycling and Recovery*, on the
18 amounts of solid waste disposed by jurisdiction or region of origin,
19 as specified in subdivision (a), and on the categories and amounts
20 of solid waste diverted to recycling and composting facilities within
21 the county or region, as specified in subdivision (b).

22 (d) The ~~board~~ *Department of Toxics and Waste Management*
23 *or the Department of Resources Recycling and Recovery* may
24 adopt regulations pursuant to this section requiring practices and
25 procedures that are reasonable and necessary to perform the
26 periodic tracking surveys required by this section, and that provide
27 a representative accounting of solid wastes that are handled,
28 processed, or disposed. Those regulations or periodic tracking
29 surveys approved by the ~~board~~ *Department of Toxics and Waste*
30 *Management or the Department of Resources Recycling and*
31 *Recovery* shall not impose an unreasonable burden on waste
32 handling, processing, or disposal operations or otherwise interfere
33 with the safe handling, processing, and disposal of solid waste.

34 (e) On or before January 1, 2002, the ~~board~~ *Department of*
35 *Toxics and Waste Management, in conjunction with the Department*
36 *of Resources Recycling and Recovery* shall submit a report to the
37 Legislature that evaluates the implementation of this section. The
38 report shall include, but not be limited to, all of the following:

39 (1) An evaluation of the accuracy of the disposal reporting
40 system under differing circumstances.

(2) The status of implementation of the disposal reporting system at the local level by waste haulers, landfills, transfer station and material recovery operators, and local agencies.

(3) The need for modification of the disposal reporting system to improve accuracy.

(4) Recommendations for regulatory and statutory changes needed to address deficiencies in the disposal reporting system.

(5) Recommendations to improve implementation and to streamline the reporting system, including ways to assist agencies to meet the reporting and tracking requirements.

(f) ~~The board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery* shall convene a working group composed of representatives of stakeholder groups, including, but not limited to, cities, counties, regional agencies, the solid waste industry, recyclers, and environmental organizations, to assist the ~~board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery* in preparing the report required pursuant to subdivision (e).

SEC. 128. Section 41821.6 of the Public Resources Code is amended to read:

41821.6. To assist market development efforts by the ~~board~~ *Department of Resources Recycling and Recovery*, local agencies, and the private sector, the ~~board~~ *Department of Resources Recycling and Recovery* shall use existing data resources collected from recycling, composting, and disposal facilities, or from other sources, to provide periodic information on the recovery and availability of recycled materials.

SEC. 129. Section 41822 of the Public Resources Code is amended to read:

41822. Each city, county, or regional agency shall review its source reduction and recycling element or the countywide integrated waste management plan at least once every five years to correct any deficiencies in the element or plan, to comply with the source reduction and recycling requirements established under Section 41780, and to revise the documents, as necessary, to comply with this part. Any revision made to an element or plan pursuant to this section shall be submitted to the ~~board~~ *Department of Resources Recycling and Recovery* for review and approval or disapproval pursuant to the schedule established under this chapter.

1 *SEC. 130. Section 41825 of the Public Resources Code, as*
2 *added by Section 13 of Chapter 343 of the Statutes of 2008, is*
3 *amended to read:*

4 41825. (a) Using the information in the report submitted to
5 the ~~board~~ *California Integrated Waste Management Board* by the
6 jurisdiction pursuant to Section 41821 and any other relevant
7 information, the ~~board~~ *Department of Resources Recycling and*
8 *Recovery* shall make a finding whether each jurisdiction was in
9 compliance with Section 41780 for calendar year 2006 and shall
10 review a jurisdiction's compliance with Section 41780 in
11 accordance with the following schedule:

12 (1) If the ~~board~~ *Department of Resources Recycling and*
13 *Recovery* makes a finding that the jurisdiction was in compliance
14 with Section 41780 for calendar year 2006, the ~~board~~ *Department*
15 *of Toxics and Waste Management and the Department of Resources*
16 *Recycling and Recovery* shall review, commencing January 1,
17 2012, and at least once every four years thereafter, whether the
18 jurisdiction has implemented its source reduction and recycling
19 element and household hazardous waste element.

20 (2) If the ~~board~~ *makes Department of Toxics and Waste*
21 *Management and the Department of Resources Recycling and*
22 *Recovery* make a finding that the jurisdiction made a good faith
23 effort to implement its source reduction and recycling element and
24 household hazardous waste element, the ~~board~~ *Department of*
25 *Toxics and Waste Management, in conjunction with the Department*
26 *of Resources Recycling and Recovery* shall review, commencing
27 January 1, 2010, and at least once every two years thereafter,
28 whether the jurisdiction has implemented its source reduction and
29 recycling element and household hazardous waste element.

30 (3) If the ~~board~~ *Department of Toxics and Waste Management*
31 *or the Department of Resources Recycling and Recovery* makes a
32 finding that the jurisdiction was not in compliance with Section
33 41780 for calendar year 2006 or for any subsequent calendar year,
34 the ~~board~~ *Department of Toxics and Waste Management, in*
35 *conjunction with the Department of Resources Recycling and*
36 *Recovery* shall review, commencing January 1, 2010, and at least
37 once every two years thereafter, whether the jurisdiction has
38 implemented its source reduction and recycling element and
39 household hazardous waste element.

(4) If, after determining that a jurisdiction is subject to paragraph (2), or, if, after determining that a jurisdiction is not in compliance with Section 41780 and is subject to paragraph (3), the ~~board~~ *Department of Toxics and Waste Management or the Department of Resources Recycling and Recovery* subsequently determines that the jurisdiction has come into compliance with Section 41780, the ~~board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, shall review, at least once every four years, whether the jurisdiction has implemented its source reduction and recycling element and household hazardous waste in the same manner as a jurisdiction that is subject to paragraph (1).

(5) If, after determining that a jurisdiction is in compliance with Section 41780 and is subject to paragraph (1), the ~~board~~ *Department of Toxics and Waste Management or the Department of Resources Recycling and Recovery* subsequently determines that the jurisdiction is not in compliance with Section 41780, the ~~board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, shall review, at least once every two years, whether the jurisdiction has implemented its source reduction and recycling element and household hazardous waste element in the same manner as a jurisdiction that is subject to paragraph (2) or (3).

(b) In addition to the requirements of subdivision (a), the ~~board~~ *Department of Toxics and Waste Management or the Department of Resources Recycling and Recovery* may review whether a jurisdiction is in compliance with Section 41780 in accordance with the requirements of this section at any time that the ~~board~~ *Department of Toxics and Waste Management or the Department of Resources Recycling and Recovery* receives information that indicates the jurisdiction may not be making a good faith effort to implement its source reduction and recycling element and household hazardous waste element.

(c) (1) Before issuing a compliance order pursuant to subdivision (d), the ~~board~~ *Department of Toxics and Waste Management, in conjunction with the Department of Resources Recycling and Recovery*, shall confer with the jurisdiction regarding conditions relating to the proposed order of compliance, with a first meeting occurring not less than 60 days before issuing a notice of intent to issue an order of compliance.

1 (2) The ~~board~~ *Department of Toxics and Waste Management,*
2 *in conjunction with the Department of Resources Recycling and*
3 *Recovery,* shall issue a notice of intent to issue an order of
4 compliance not less than 30 days before the ~~board~~ *Department of*
5 *Toxics and Waste Management, in conjunction with the Department*
6 *of Resources Recycling and Recovery,* holds a hearing to issue the
7 notice of compliance. The notice of intent shall specify all of the
8 following:

9 (A) The proposed basis for issuing an order of compliance.

10 (B) The proposed actions the ~~board~~ *Department of Toxics and*
11 *Waste Management, in conjunction with the Department of*
12 *Resources Recycling and Recovery,* recommends are necessary
13 for the jurisdiction to complete to implement its source reduction
14 and recycling element or household hazardous waste element.

15 (C) The proposed recommendations to the ~~board~~ *Department*
16 *of Toxics and Waste Management and the Department of Resources*
17 *Recycling and Recovery.*

18 (3) The ~~board~~ *Department of Resources Recycling and Recovery*
19 shall consider any information provided pursuant to subdivision
20 (c) of Section 41821 if the proposed issuance of an order of
21 compliance involves changes to a jurisdiction's calculation of
22 annual disposal.

23 (d) (1) If, after holding a public hearing, which, to the extent
24 possible, shall be held in the local or regional agency's jurisdiction,
25 the ~~board~~ *Department of Toxics and Waste Management, in*
26 *conjunction with the Department of Resources Recycling and*
27 *Recovery,* finds that a jurisdiction has failed to make a good faith
28 effort to implement its source reduction and recycling element or
29 its household hazardous waste element, the ~~board~~ *Department of*
30 *Toxics and Waste Management, in conjunction with the Department*
31 *of Resources Recycling and Recovery,* shall issue an order of
32 compliance with a specific schedule for achieving compliance.

33 (2) The compliance order shall include those conditions that the
34 ~~board~~ *Department of Toxics and Waste Management, in*
35 *conjunction with the Department of Resources Recycling and*
36 *Recovery* determines to be necessary for the jurisdiction to
37 implement its diversion programs.

38 (3) In addition to considering the good faith efforts of a
39 jurisdiction, as specified in subdivision (e), to implement a
40 diversion program, the ~~board~~ *Department of Toxics and Waste*

1 *Management, in conjunction with the Department of Resources*
2 *Recycling and Recovery*, shall consider both of the following
3 factors in determining whether or not to issue a compliance order:

4 (A) Whether an exceptional growth rate may have affected
5 compliance.

6 (B) Other information that the jurisdiction may provide that
7 indicates the effectiveness of the jurisdiction's programs, such as
8 disposal characterization studies or other jurisdiction specific
9 information.

10 (e) For purposes of making a determination pursuant to this
11 section whether a jurisdiction has failed to make a good faith effort
12 to implement its source reduction and recycling element or its
13 household hazardous waste element, ~~the board~~ *Department of*
14 *Toxics and Waste Management and the Department of Resources*
15 *Recycling and Recovery*, shall consider all of the following criteria:

16 (1) For the purposes of this section, "good faith effort" means
17 all reasonable and feasible efforts by a jurisdiction to implement
18 those programs or activities identified in its source reduction and
19 recycling element or household hazardous waste element, or
20 alternative programs or activities that achieve the same or similar
21 results.

22 (2) For purposes of this section, "good faith effort" may also
23 include the evaluation by a jurisdiction of improved technology
24 for the handling and management of solid waste that would reduce
25 costs, improve efficiency in the collection, processing, or marketing
26 of recyclable materials or yard waste, and enhance the ability of
27 the jurisdiction to adequately address all sources of significant
28 disposal, the submission by the jurisdiction of a compliance
29 schedule, and the undertaking of all other reasonable and feasible
30 efforts to implement the programs identified in the jurisdiction's
31 source reduction and recycling element or household hazardous
32 waste element.

33 (3) In determining whether a jurisdiction has made a good faith
34 effort, ~~the board~~ *Department of Toxics and Waste Management*
35 *and the Department of Resources Recycling and Recovery* shall
36 consider the enforcement criteria included in ~~its~~ *the California*
37 *Integrated Waste Management Board's* enforcement policy, as
38 adopted on April 25, 1995, or as subsequently amended.

39 (4) ~~The board~~ *Department of Toxics and Waste Management*
40 *and the Department of Resources Recycling and Recovery* shall

1 consider all of the following when considering whether a
2 jurisdiction has made a good faith effort to implement its source
3 reduction and recycling element or its household hazardous waste
4 element:

5 (A) Natural disasters.

6 (B) Budgetary conditions within a jurisdiction that could not
7 be remedied by the imposition or adjustment of solid waste fees.

8 (C) Work stoppages that directly prevent a jurisdiction from
9 implementing its source reduction and recycling element or
10 household hazardous waste element.

11 (D) The impact of the failure of federal, state, and other local
12 agencies located within the jurisdiction to implement source
13 reduction and recycling programs in the jurisdiction.

14 (E) The extent to which the jurisdiction has implemented
15 additional source reduction, recycling, and composting activities.

16 (F) The extent to which the jurisdiction has made program
17 implementation choices driven by considerations related to other
18 environmental issues, including climate change.

19 (G) Whether the jurisdiction has provided information to the
20 ~~board~~ *Department of Resources Recycling and Recovery* concerning
21 whether construction and demolition waste material is at least a
22 moderately significant portion of the waste stream, and, if so,
23 whether the local jurisdiction has adopted an ordinance for
24 diversion of construction and demolition waste materials from
25 solid waste disposal facilities, has adopted a model ordinance
26 pursuant to subdivision (a) of Section 42912 for diversion of
27 construction and demolition waste materials from solid waste
28 disposal facilities, or has implemented another program to
29 encourage or require diversion of construction and demolition
30 waste materials from solid waste disposal facilities.

31 (H) The extent to which the jurisdiction has implemented
32 programs to comply with Section 41780 and to maintain its per
33 capita disposal rate.

34 (5) In making a determination whether a jurisdiction has made
35 a good faith effort, pursuant to this section, the ~~board~~ *Department*
36 *of Resources Recycling and Recovery* may consider a jurisdiction's
37 per capita disposal rate as a factor in determining whether the
38 jurisdiction adequately implemented its diversion programs. The
39 ~~board~~ *Department of Toxics and Waste Management or the*
40 *Department of Resources Recycling and Recovery* shall not

1 consider a jurisdiction's per capita disposal rate to be determinative
2 as to whether the jurisdiction has made a good faith effort to
3 implement its source reduction and recycling element or its
4 household hazardous waste element.

5 (f) This section shall remain in effect only until January 1, 2018,
6 and as of that date is repealed, unless a later enacted statute, that
7 is enacted before January 1, 2018, deletes or extends that date.

8 *SEC. 131. Section 41850 of the Public Resources Code is*
9 *amended to read:*

10 41850. (a) Except as specifically provided in Section 41813,
11 if, after holding the public hearing and issuing an order of
12 compliance pursuant to Section 41825, the ~~board~~ *Department of*
13 *Toxics and Waste Management, in conjunction with the Department*
14 *of Resources Recycling and Recovery, finds that the jurisdiction*
15 *has failed to make a good faith effort to implement its source*
16 *reduction and recycling element or its household hazardous waste*
17 *element, the ~~board~~ Department of Toxics and Waste Management*
18 *or the Department of Resources Recycling and Recovery may*
19 *impose administrative civil penalties upon the city or county or,*
20 *pursuant to Section 40974, upon the city or county as a member*
21 *of a regional agency, of up to ten thousand dollars (\$10,000) per*
22 *day until the jurisdiction implements the element.*

23 (b) In determining whether or not to impose any penalties, or
24 in determining the amount of any penalties imposed under this
25 section, including any penalties imposed due to the exclusion of
26 solid waste pursuant to Section 41781.2 that results in a reduction
27 in the quantity of solid waste diverted by a jurisdiction, the ~~board~~
28 *Department of Toxics and Waste Management or the Department*
29 *of Resources Recycling and Recovery shall consider whether the*
30 *jurisdiction has made a good faith effort to implement its source*
31 *reduction and recycling element or its household hazardous waste*
32 *element. In addition, the ~~board~~ Department of Toxics and Waste*
33 *Management or the Department of Resources Recycling and*
34 *Recovery shall consider only those relevant circumstances that*
35 *have prevented a jurisdiction from meeting the requirements of*
36 *this division, including, but not limited to, the factors described*
37 *in subdivisions (d) and (e) of Section 41825.*

38 *SEC. 132. Section 41850.5 of the Public Resources Code is*
39 *amended to read:*

1 41850.5. Any administrative civil penalty imposed by the ~~board~~
2 *Department of Toxics and Waste Management or the Department*
3 *of Resources Recycling and Recovery* pursuant to Section 41813
4 or 48150 shall be deposited in the Local Government Assistance
5 Account, which is hereby created in the Integrated Waste
6 Management Fund. Any funds deposited in that account shall be
7 used solely for the purposes of assisting local governments in
8 complying with the diversion requirements established under
9 Section 41780, and shall not be used by the ~~board~~ *Department of*
10 *Toxics and Waste Management or the Department of Resources*
11 *Recycling and Recovery* for administrative purposes.

12 *SEC. 133. Section 41851 of the Public Resources Code is*
13 *amended to read:*

14 41851. Nothing in this chapter shall infringe on the existing
15 authority of counties and cities to control land use or to make land
16 use decisions, and nothing in this chapter provides or transfers
17 new authority over that land use to the ~~board~~ *Department of Toxics*
18 *and Waste Management or the Department of Resources Recycling*
19 *and Recovery*.

20 *SEC. 134. Section 41903 of the Public Resources Code is*
21 *amended to read:*

22 41903. A city or county may assess special fees of a reasonable
23 amount on the importation of waste from outside of the county to
24 publicly owned or privately owned facilities. No city or county
25 shall export solid waste to any other jurisdiction unless the
26 exporting city or county has, within one year following the date
27 specified in Section 41791 or a later date established or permitted
28 by the ~~board~~ *Department of Toxics and Waste Management, in*
29 *conjunction with the Department of Resources Recycling and*
30 *Recovery* an approved city or county household hazardous waste
31 element and a source reduction and recycling element which have
32 both been implemented, or have submitted a countywide integrated
33 waste management plan, and is in compliance with it, provided,
34 however, that, until one year following the date specified in Section
35 41791 or a later date established by the ~~board~~ *Department of Toxics*
36 *and Waste Management or the Department of Resources Recycling*
37 *and Recovery*, nothing herein shall be construed as prohibiting the
38 export of solid waste. The ~~board~~ *Department of Toxics and Waste*
39 *Management, in conjunction with the Department of Resources*
40 *Recycling and Recovery*, may waive the requirements of this

1 section if the ~~board~~ *Department of Toxics and Waste Management*
2 *or the Department of Resources Recycling and Recovery*
3 determines that all additional reasonable source reduction and
4 recycling programs are being implemented in the city or county
5 or if the ~~board~~ *Department of Toxics and Waste Management, in*
6 *conjunction with the Department of Resources Recycling and*
7 *Recovery* determines that the system to export waste supports or
8 enhances the city or county source recovery and recycling element.

9 *SEC. 135. Section 41956 of the Public Resources Code is*
10 *amended to read:*

11 41956. The ~~board~~ *Department of Resources Recycling and*
12 *Recovery* may award special enforcement grants to cities or
13 counties to support pilot programs designed to develop and evaluate
14 enforcement techniques to reduce the theft of recyclable materials
15 from commercial, industrial, or other nonresidential establishments.

16 *SEC. 136. Section 42000 of the Public Resources Code is*
17 *amended to read:*

18 42000. The Legislature hereby finds and declares all of the
19 following:

20 (a) This division requires cities and counties to divert 25 percent
21 of all solid waste from landfills and transformation facilities by
22 1995 and 50 percent by 2000. As of 1990, the overall diversion
23 rate in the state was 12 percent.

24 (b) California's source reduction, recycling, and composting
25 efforts need to increase greatly if local jurisdictions are to meet
26 the 25-percent and the 50-percent diversion requirements.

27 (c) Market development is the key to increased, cost-effective
28 recycling. Market development includes activities that strengthen
29 demand by manufacturers and end-use consumers for recyclable
30 materials collected by municipalities, nonprofit organizations, and
31 private entities.

32 (d) Developing markets for recyclable materials creates
33 opportunities that will reindustrialize California. The ~~board~~
34 *Department of Resources Recycling and Recovery* estimates that
35 the development of markets for recyclable materials may create
36 over 20,000 jobs in California's manufacturing sector, an additional
37 25,000 jobs in the sorting and processing fields, and an unestimated
38 number of jobs in other fields that may develop through full
39 implementation of this division.

1 (e) The ~~board~~ *Department of Resources Recycling and Recovery*
2 is authorized to conduct individual market development activities,
3 but is not presently required to implement a comprehensive plan
4 that addresses the full range of market development needs.

5 *SEC. 137. Section 42002 of the Public Resources Code is*
6 *amended to read:*

7 42002. The following definitions govern the construction of
8 this chapter:

9 (a) “Applicant” means a person, as defined in Section 40170,
10 who applies for designation as a Recycling Market Development
11 Zone.

12 (b) “Postconsumer waste material” means any product generated
13 by a business or a consumer which has served its intended end
14 use, and which has been separated from solid waste for the
15 purposes of collection, recycling, and disposal, and which does
16 not include secondary waste material.

17 (c) “Recycling-based business” means any business that
18 increases market demand for, or adds value to, postconsumer waste
19 material or secondary waste material.

20 (d) “Recycling market development zone” or “zone” means any
21 single or joint, contiguous parcels of property that, based on the
22 determination of the ~~board~~ *Department of Resources Recycling*
23 *and Recovery*, meets the following criteria:

24 (1) The area has been zoned an appropriate land use for the
25 development of commercial, industrial, or manufacturing purposes.

26 (2) The area is identified in the countywide or regional agency
27 integrated waste management plan as part of the market
28 development area.

29 (3) The area is located in a city with an existing postconsumer
30 waste collection infrastructure.

31 (4) The area may be used to establish commercial,
32 manufacturing, or industrial processes which would produce end
33 products that consist of not less than 50 percent recycled materials.

34 (e) “Revolving loan program” means the Recycling Market
35 Development Revolving Loan Program established pursuant to
36 Section 42023.1.

37 (f) “Secondary waste material” means industrial byproducts
38 which would otherwise go to disposal facilities and wastes
39 generated after completion of a manufacturing process, but does
40 not include internally generated scrap commonly returned to

1 industrial or manufacturing processes, such as home scrap and
2 mill broke.

3 (g) “Subaccount” means the Recycling Market Development
4 Revolving Loan Subaccount created pursuant to subdivision (a)
5 of Section 42023.1.

6 *SEC. 138. Section 42005 of the Public Resources Code is*
7 *amended to read:*

8 42005. (a) ~~The board~~ *Department of Resources Recycling and*
9 *Recovery* shall develop a comprehensive market development plan
10 using existing resources, that will stimulate market demand in the
11 state for postconsumer waste material and secondary waste material
12 generated in the state.

13 (b) ~~The board’s~~ *Department of Resources Recycling and*
14 *Recovery’s* market development plan shall include, but shall not
15 be limited to, achieving all of the following goals:

16 (1) Increasing market demand for postconsumer waste materials
17 and secondary waste materials available due to California’s source
18 reduction and recycling programs.

19 (2) Increasing demand for recycled content products, especially
20 high quality, value-added products.

21 (3) Promoting efficient local waste diversion systems which
22 yield high quality, industrially usable feedstocks.

23 (4) Promoting the competitive collection and use of secondary
24 waste materials.

25 (c) ~~The board’s~~ *Department of Resources Recycling and*
26 *Recovery’s* development plan shall also include efforts to encourage
27 and promote cooperative, regional programs to expand markets
28 for recycled material. These programs shall include activities to
29 address problems and opportunities that are unique to rural, urban,
30 and suburban areas of the state.

31 (d) ~~The board~~ *Department of Resources Recycling and Recovery*
32 shall develop a plan, using existing resources, to provide assistance
33 to local agencies when requested by a city, county, or regional
34 agency, in the implementation of cost-effective programs that
35 provide a quality supply of recycled materials for markets.

36 *SEC. 139. Section 42007 of the Public Resources Code is*
37 *amended to read:*

38 42007. Upon adoption of the plan required by Section 42005,
39 ~~the board~~ *Department of Resources Recycling and Recovery* shall
40 conduct a detailed analysis of staff resources and consider how to

1 most effectively implement the plan in consideration of existing
2 statutory mandates and resource constraints.

3 *SEC. 140. Section 42012 of the Public Resources Code is*
4 *amended to read:*

5 42012. The local governing body, or any person through the
6 local governing body, may apply to the ~~board~~ Department of
7 Resources Recycling and Recovery for designation as a recycling
8 market development zone.

9 *SEC. 141. Section 42013 of the Public Resources Code is*
10 *amended to read:*

11 42013. The ~~board~~ Department of Resources Recycling and
12 Recovery shall adopt regulations and guidelines concerning the
13 necessary contents of each application for designation and, in the
14 countywide integrated waste management plans, shall determine
15 the maximum number of recycling market development zones to
16 be designated pursuant to this chapter.

17 *SEC. 142. Section 42014 of the Public Resources Code is*
18 *amended to read:*

19 42014. The ~~board~~ Department of Resources Recycling and
20 Recovery may designate or redesignate recycling market
21 development zones for persons applying for that designation.

22 *SEC. 143. Section 42015 of the Public Resources Code is*
23 *amended to read:*

24 42015. If there are more applications for designation than the
25 number of recycling market development zones to be designated,
26 the ~~board~~ Department of Resources Recycling and Recovery shall
27 select the applicants who shall receive the designation of a
28 recycling market development zone based on a comparison of the
29 applications submitted and an indication that the applicant's
30 proposals include effective, innovative, and comprehensive tax
31 incentives and regulatory incentives, and other incentives programs,
32 to attract private sector investment in the proposed recycling market
33 development zone.

34 *SEC. 144. Section 42019 of the Public Resources Code is*
35 *amended to read:*

36 42019. In evaluating an application for the designation of a
37 recycling market development zone, the ~~board~~ Department of
38 Resources Recycling and Recovery shall consider the amount of
39 landfill capacity remaining in the jurisdiction where the zone would
40 be located.

1 *SEC. 145. Section 42020 of the Public Resources Code is*
2 *amended to read:*

3 42020. In evaluating an application for the designation of a
4 recycling market development zone, the ~~board~~ *Department of*
5 *Resources Recycling and Recovery* shall not deny the application
6 solely because of technical deficiencies. The ~~board~~ *Department*
7 *of Resources Recycling and Recovery* shall provide applicants with
8 an opportunity to correct technical deficiencies. An application
9 shall be denied if technical deficiencies are not corrected within
10 14 days.

11 *SEC. 146. Section 42023.1 of the Public Resources Code is*
12 *amended to read:*

13 42023.1. (a) The Recycling Market Development Revolving
14 Loan Subaccount is hereby created in the account for the purpose
15 of providing loans for purposes of the Recycling Market
16 Development Revolving Loan Program established pursuant to
17 this article.

18 (b) Notwithstanding Section 13340 of the Government Code,
19 the funds deposited in the subaccount are hereby continuously
20 appropriated to the ~~board~~ *Department of Resources Recycling and*
21 *Recovery* without regard to fiscal year for making loans pursuant
22 to this article.

23 (c) The ~~board~~ *Department of Resources Recycling and Recovery*
24 may expend interest earnings on funds in the subaccount for
25 administrative expenses incurred in carrying out the Recycling
26 Market Development Revolving Loan Program, upon the
27 appropriation of funds in the subaccount for that purpose in the
28 annual Budget Act.

29 (d) The money from any loan repayments and fees, including,
30 but not limited to, principal and interest repayments, fees and
31 points, recovery of collection costs, income earned on any asset
32 recovered pursuant to a loan default, and funds collected through
33 foreclosure actions, shall be deposited in the subaccount.

34 (e) All interest accruing on interest payments from loan
35 applicants shall be deposited in the subaccount.

36 (f) The ~~board~~ *Department of Resources Recycling and Recovery*
37 may expend the money in the subaccount to make loans to local
38 governing bodies, private businesses, and nonprofit entities within
39 recycling market development zones, or in areas outside zones

1 where partnerships exist with other public entities to assist local
2 jurisdictions to comply with Section 40051.

3 (g) ~~The board~~ *Department of Resources Recycling and Recovery*
4 shall establish and collect fees for applications for loans authorized
5 by this section. The application fee shall be set at a level that is
6 sufficient to fund the ~~board's~~ *Department of Resources Recycling*
7 *and Recovery's* cost of processing applications for loans. In
8 addition, the ~~board~~ *Department of Resources Recycling and*
9 *Recovery* shall establish a schedule of fees, or points, for loans
10 which are entered into by the ~~board~~ *Department of Resources*
11 *Recycling and Recovery*, to fund the ~~board's~~ *Department of*
12 *Resources Recycling and Recovery's* administration of the
13 revolving loan program.

14 (h) ~~The board~~ *Department of Resources Recycling and Recovery*
15 may expend money in the subaccount for the administration of the
16 Recycling Market Development Revolving Loan Program, upon
17 the appropriation of funds in the subaccount for that purpose in
18 the annual Budget Act. In addition, the ~~board~~ *Department of*
19 *Resources Recycling and Recovery* may expend money in the
20 account to administer the revolving loan program, upon the
21 appropriation of funds in the subaccount for that purpose in the
22 annual Budget Act. However, funding for the administration of
23 the revolving loan program from the account shall be provided
24 only if there are not sufficient funds in the subaccount to fully fund
25 the administration of the program.

26 (i) ~~The board~~ *Department of Resources Recycling and Recovery*,
27 pursuant to subdivision (a) of Section 47901, may set aside funds
28 for the purposes of paying costs necessary to protect the state's
29 position as a lender-creditor. These costs shall be broadly construed
30 to include, but not be limited to, foreclosure expenses, auction
31 fees, title searches, appraisals, real estate brokerage fees, attorney
32 fees, mortgage payments, insurance payments, utility costs, repair
33 costs, removal and storage costs for repossessed equipment and
34 inventory, and additional expenditures to purchase a senior lien in
35 foreclosure or bankruptcy proceedings.

36 (j) (1) Except as provided in paragraph (2), this section shall
37 become inoperative on July 1, 2011, and as of January 1, 2012, is
38 repealed, unless a later enacted statute, which becomes effective
39 on or before January 1, 2012, deletes or extends the dates on which
40 it becomes inoperative and is repealed.

(2) The repeal of this section pursuant to paragraph (1) shall not extinguish any loan obligation or the authority of the state to pursue appropriate actions for the collection of a loan.

SEC. 147. Section 42023.3 of the Public Resources Code is amended to read:

42023.3. (a) All money remaining in the subaccount on July 1, 2011, and all money received as repayment and interest on loans shall, as of July 1, 2011, be transferred to the account and any money due and outstanding on loans as of July 1, 2011, shall be repaid to the ~~board~~ *Department of Resources Recycling and Recovery* and deposited by the ~~board~~ *Department of Resources Recycling and Recovery* in the account until paid in full, except that, upon authorization by the Legislature in the annual Budget Act, interest earnings may be expended for administrative costs associated with the collection of outstanding loan accounts.

(b) (1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

(2) The repeal of this section pursuant to paragraph (1) shall not extinguish any loan obligation or the authority of the state to pursue appropriate actions for the collection of a loan.

SEC. 148. Section 42023.4 of the Public Resources Code is amended to read:

42023.4. (a) Loans made pursuant to Section 42023.1 shall be subject to all of the following requirements:

(1) The terms of any approved loan shall be specified in a loan agreement between the borrower and the ~~board~~ *Department of Resources Recycling and Recovery*. The loan agreement shall include a requirement that the failure to comply with the agreement shall result in any remaining unpaid amount of the loan, with accrued interest, being immediately due and payable. Notwithstanding any term of the agreement, any recipient of a loan that the ~~board~~ *Department of Resources Recycling and Recovery* approves shall repay the principal amount, plus interest on the basis of the rate of return for money in the Surplus Money Investment Fund at the time of the loan commitment. Except as provided in subdivision (a) of Section 42023.3, all money received

1 as repayment and interest on loans made pursuant to this section
2 shall be deposited in the subaccount.

3 (2) The term of any loan made pursuant to this section shall be
4 not more than 10 years when collateralized by assets other than
5 real estate, or not more than 15 years when partially or wholly
6 collateralized by real estate.

7 (3) ~~The board~~ *Department of Resources Recycling and Recovery*
8 shall approve only those loan applications that demonstrate the
9 applicant's ability to repay the loan. The highest priority for
10 funding shall be given to projects which demonstrate that the
11 project will increase market demand for recycling the project's
12 type of postconsumer waste material.

13 (4) ~~The board~~ *Department of Resources Recycling and Recovery*
14 shall finance not more than three-fourths of the cost of each project,
15 or not more than two million dollars (\$2,000,000) for each project,
16 whichever is less.

17 (5) The Department of Finance may audit the expenditure of
18 the proceeds of any loan made pursuant to Section 42023.1 and
19 this section.

20 (b) (1) Except as provided in paragraph (2), this section shall
21 become inoperative on July 1, 2011, and as of January 1, 2012, is
22 repealed, unless a later enacted statute, which becomes effective
23 on or before January 1, 2012, deletes or extends the dates on which
24 it becomes inoperative and is repealed.

25 (2) The repeal of this section pursuant to paragraph (1) shall
26 not extinguish any loan obligation or the authority of the state to
27 pursue appropriate actions for the collection of a loan.

28 *SEC. 149. Section 42023.5 of the Public Resources Code is*
29 *amended to read:*

30 42023.5. (a) ~~The board~~ *Department of Resources Recycling*
31 *and Recovery* shall, as part of the annual report to the Legislature,
32 pursuant to Section 40507, include a report on the performance of
33 the Recycling Market Development Revolving Loan Program,
34 including the number and size of loans made, characteristics of
35 loan recipients, projected loan demand, and the cost of
36 administering the program.

37 (b) This section shall become inoperative on July 1, 2011, and
38 as of January 1, 2012, is repealed, unless a later enacted statute,
39 which becomes effective on or before January 1, 2012, deletes or
40 extends the dates on which it becomes inoperative and is repealed.

1 *SEC. 150. Section 42023.6 of the Public Resources Code is*
2 *amended to read:*

3 42023.6. (a) ~~The board~~ *Department of Resources Recycling*
4 *and Recovery* shall encourage applicants to seek participation from
5 private financial institutions or other public agencies. For purposes
6 of enabling the ~~board~~ *Department of Resources Recycling and*
7 *Recovery* and local agencies to comply with Sections 40051 and
8 41780, the ~~board~~ *Department of Resources Recycling and Recovery*
9 may participate, in an amount not to exceed five hundred thousand
10 dollars (\$500,000), in the Capital Access Loan Program as provided
11 in Article 8 (commencing with Section 44559) of Chapter 1 of
12 Division 27 of the Health and Safety Code.

13 (b) For purposes of participating in the Capital Access Loan
14 Program, as specified in subdivision (a), or in any program that
15 leverages subaccount funds, the ~~board~~ *Department of Resources*
16 *Recycling and Recovery* may operate both inside and outside the
17 recycling market development zones.

18 (c) (1) Except as provided in paragraph (2), this section shall
19 become inoperative on July 1, 2011, and as of January 1, 2012, is
20 repealed, unless a later enacted statute, which becomes effective
21 on or before January 1, 2012, deletes or extends the dates on which
22 it becomes inoperative and is repealed.

23 (2) The repeal of this section pursuant to paragraph (1) shall
24 not extinguish any loan obligation or the authority of the state to
25 pursue appropriate actions for the collection of a loan.

26 *SEC. 151. Section 42024 of the Public Resources Code is*
27 *amended to read:*

28 42024. ~~The board~~ *Department of Resources Recycling and*
29 *Recovery*, the Treasurer, and other appropriate state agencies shall,
30 to the extent feasible and as appropriate, coordinate activities that
31 will leverage financing for market development projects and
32 encourage joint activities to strengthen markets for recycled
33 materials.

34 *SEC. 152. Section 42106 of the Public Resources Code is*
35 *amended to read:*

36 42106. The agency in consultation with the air board, water
37 board and the department, may adopt regulations to implement
38 this chapter. The agency may adopt emergency regulations to
39 implement the loan guarantee program in accordance with Chapter
40 3.5 (commencing with Section 11340) of Part 1 of Division 3 of

Title 2 of the Government Code, and for the purposes of that chapter, including Section 11346.1 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation adopted by the ~~board~~ *Department of Toxics and Waste Management* pursuant to this section shall be filed with, but not repealed by, the Office of Administrative Law, and shall remain in effect until revised by the agency.

SEC. 153. Section 42171 of the Public Resources Code is amended to read:

42171. The ~~board~~ *Department of Toxics and Waste Management* shall evaluate the use of recycling residue for use as solid waste landfill cover materials or for use as extenders for currently used cover material. If used as daily cover or as extenders to daily cover, recycling residues shall have all of the physical characteristics required by regulations for cover materials adopted pursuant to Section 43020. The results of this evaluation shall be reported in the report required pursuant to Section 40507.

SEC. 154. Section 42172 of the Public Resources Code is amended to read:

42172. The ~~board~~ *Department of Toxics and Waste Management* shall conduct its evaluation of recycling residue in consultation with ~~the Department of Toxic Substances Control,~~ the State Air Resources Board, the state water board, and any other agency having pertinent jurisdiction. Recycling residue used as daily cover or as extenders in daily cover shall meet performance standards and requirements for cover material as specified in the regulations adopted pursuant to Section 43020.

SEC. 155. Section 42240 of the Public Resources Code is amended to read:

42240. The Department of General Services and the ~~board~~ *Department of Resources Recycling and Recovery*, in consultation with other affected state agencies, shall maintain specifications for the purchase of compost by the State of California. The specifications shall designate the state minimum operating standards and product quality standards. The specifications shall

1 be designed to maximize the use of compost without jeopardizing
2 the safety and health of the citizens of the state or the environment.

3 *SEC. 156. Section 42241.5 of the Public Resources Code is*
4 *amended to read:*

5 42241.5. The ~~board~~ Department of Resources Recycling and
6 Recovery may develop a program to increase the use of compost
7 products in agricultural applications. The program may include,
8 but shall not be limited to, the following:

9 (a) Identification of federal, state, and local financial assistance.

10 (b) Cooperative efforts with appropriate federal and state
11 agencies.

12 *SEC. 157. Section 42244 of the Public Resources Code is*
13 *amended to read:*

14 42244. The ~~board~~ Department of Resources Recycling and
15 Recovery shall evaluate compost, cocompost, and chemically fixed
16 sewage sludge for use as solid waste landfill cover materials or
17 for use as extenders for currently used cover material. Compost,
18 cocompost, and chemically fixed sewage sludge products, when
19 used as a substitute for or mixed with currently approved cover
20 material, shall possess all the physical characteristics required in
21 the definition of a cover material.

22 *SEC. 158. Section 42244.5 of the Public Resources Code is*
23 *amended to read:*

24 42244.5. On or before January 1, 1994, the ~~board~~ Department
25 of Resources Recycling and Recovery shall evaluate rice straw for
26 use as a solid waste landfill cover material or for use as an extender
27 for currently used cover material. Rice straw or rice straw materials,
28 when used as a substitute for or mixed with currently approved
29 cover material, shall possess all the physical characteristics required
30 in the definition of a cover material. The results of the evaluation
31 shall be included in the report required pursuant to Section 40507.

32 *SEC. 159. Section 42245 of the Public Resources Code is*
33 *amended to read:*

34 42245. On or after January 1, 1992, based on the results of the
35 evaluation conducted in accordance with Section 42244, the ~~board~~
36 Department of Resources Recycling and Recovery may, on a
37 case-by-case basis, approve the use of compost, co-compost, and
38 chemically fixed sewage sludge, that meet the performance
39 standards for cover material, for up to 25 percent of landfill cover
40 materials or landfill cover extenders.

1 *SEC. 160. Section 42252 of the Public Resources Code is*
2 *amended to read:*

3 42252. An at-store recycling program provided by the operator
4 of a store shall include all of the following:

5 (a) A plastic carryout bag provided by the store shall have
6 printed or displayed on the bag, in a manner visible to a consumer,
7 the words "PLEASE RETURN TO A PARTICIPATING STORE
8 FOR RECYCLING."

9 (b) A plastic carryout bag collection bin shall be placed at each
10 store and shall be visible, easily accessible to the consumer, and
11 clearly marked that the collection bin is available for the purpose
12 of collecting and recycling plastic carryout bags.

13 (c) All plastic bags collected by the store shall be collected,
14 transported, and recycled in a manner that does not conflict with
15 the local jurisdiction's source reduction and recycling element,
16 pursuant to Chapter 2 (commencing with Section 41000) and
17 Chapter 3 (commencing with Section 41300) of Part 2.

18 (d) The store shall maintain records describing the collection,
19 transport, and recycling of plastic bags collected for a minimum
20 of three years and shall make the records available to the ~~board~~
21 *Department of Resources Recycling and Recovery* or the local
22 jurisdiction, upon request, to demonstrate compliance with this
23 chapter.

24 (e) The operator of the store shall make reusable bags available
25 to customers within the store, which may be purchased and used
26 in lieu of using a plastic carryout bag or paper bag. This subdivision
27 is not applicable to a retail establishment specified pursuant to
28 subdivision (b) of Section 42251.

29 *SEC. 161. Section 42291 of the Public Resources Code is*
30 *amended to read:*

31 42291. (a) Until January 1, 1998, every manufacturer that
32 manufactures plastic trash bags of 0.75 mil or greater thickness
33 for sale in this state shall ensure that at least 30 percent of the
34 material used in those plastic trash bags is recycled plastic
35 postconsumer material.

36 (b) (1) On and after January 1, 1998, the manufacturer's
37 required use of recycled plastic postconsumer material shall be
38 determined pursuant to paragraph (2). Compliance by a
39 manufacturer with either alternative shall be deemed to be
40 compliance with this subdivision.

(2) Every manufacturer of regulated bags shall do one of the following:

(A) Ensure that its plastic trash bags intended for sale in this state contain a quantity of recycled plastic postconsumer material equal to at least 10 percent of the weight of the regulated bags.

(B) Ensure that at least 30 percent of the weight of the material used in all of its plastic products intended for sale in this state is recycled plastic postconsumer material.

(3) Beginning March 1, 1999, and annually thereafter, every manufacturer subject to this subdivision shall certify to the ~~board~~ *Department of Resources Recycling and Recovery* that it has used the required amount of recycled plastic postconsumer material annually in compliance with paragraph (2).

(c) Any certification of postconsumer materials used for compliance with this chapter shall not include any materials that are certified or used for compliance with any other state or federal requirement that requires the use or reporting of postconsumer materials for any plastic products.

(d) If any manufacturer subject to this section is unable to obtain sufficient amounts of recycled plastic postconsumer material to comply with this section within a reporting period because of unavailability or because the available material did not meet recycled plastic postconsumer material quality standards adopted by the ~~board~~ *Department of Resources Recycling and Recovery*, the manufacturer shall certify that fact to the ~~board~~ *Department of Resources Recycling and Recovery*. Each manufacturer making that certification shall make a reasonable effort to identify available supplies of material before submitting certification to the ~~board~~ *Department of Resources Recycling and Recovery*.

(e) The Legislature hereby finds and declares that although the changes made to this section by the act amending this section during the 1998 portion of the 1997–98 Regular Session become effective after January 1, 1998, it is the intent of the Legislature that the new requirements specified in subdivision (b) be effective as of January 1, 1998. The Legislature further finds that this change is requested by the manufacturers subject to this section and that the retroactive effect of these changes will not cause any hardship on any manufacturer subject to this section, or cause any manufacturer to be subject to regulatory action as a result of these

1 changes, but rather, would instead have the effect of preventing
2 hardship to the manufacturers regulated by this section.

3 *SEC. 162. Section 42291.5 of the Public Resources Code is*
4 *amended to read:*

5 42291.5. For each pound of recycled plastic postconsumer
6 material purchased from a source of recycled plastic postconsumer
7 material in this state for use in the manufacture of plastic trash
8 bags, or other products manufactured with recycled plastic
9 postconsumer material in compliance with this chapter, the ~~board~~
10 *Department of Resources Recycling and Recovery* shall credit the
11 manufacturer certifying pursuant to Section 42293 with having
12 used 1.2 pounds of recycled plastic postconsumer material toward
13 compliance with the requirements of Section 42291.

14 *SEC. 163. Section 42292 of the Public Resources Code is*
15 *amended to read:*

16 42292. Each manufacturer shall obtain from its suppliers of
17 recycled plastic postconsumer material for use in the manufacture
18 of plastic trash bags, or other products manufactured with recycled
19 plastic postconsumer material in compliance with this chapter, a
20 statement identifying the quantity, source location, and proximate
21 prior usage of, and the actual postconsumer material content of,
22 each shipment of recycled plastic postconsumer material purchased
23 by the manufacturer, and any other information that the ~~board~~
24 *Department of Resources Recycling and Recovery*, may, by
25 regulation, require the manufacturer to obtain from its suppliers,
26 for purposes of inclusion in the annual report required by Section
27 42293.

28 *SEC. 164. Section 42293 of the Public Resources Code is*
29 *amended to read:*

30 42293. (a) On or before March 1, 1999, and annually thereafter,
31 each manufacturer subject to this chapter shall submit a report to
32 the ~~board~~ *Department of Resources Recycling and Recovery*
33 certifying that it has complied with Section 42291 during the
34 preceding calendar year, certifying the name and physical location
35 of each of its suppliers of recycled plastic postconsumer material
36 for use in the manufacture of plastic trash bags, or other products
37 manufactured with recycled plastic postconsumer material in
38 compliance with this chapter, and containing the information
39 obtained pursuant to Section 42292 and any other information that
40 the ~~board~~ *Department of Resources Recycling and Recovery* may

1 require by regulation. Any manufacturer that processes its own
2 recycled plastic postconsumer material shall certify to the ~~board~~
3 *Department of Resources Recycling and Recovery* that it is the
4 supplier of the material.

5 ~~(b) On or before October 1, 2001, the board shall survey~~
6 ~~manufacturers subject to this section and, notwithstanding Section~~
7 ~~7550.5 of the Government Code, report back to the Legislature.~~
8 ~~The survey shall do all of the following:~~

9 ~~(1) Identify the name and physical location of suppliers certified~~
10 ~~by manufacturers pursuant to subdivision (a):~~

11 ~~(2) Identify the quantity of recycled plastic postconsumer~~
12 ~~material provided by suppliers within the state and the quantity of~~
13 ~~the material provided by suppliers outside the state.~~

14 ~~(3) Provide recommendations regarding recycled plastic~~
15 ~~postconsumer material content requirements based on the~~
16 ~~availability of that material.~~

17 ~~(4) Identify gauge thickness of all regulated bags.~~

18 ~~(5) Determine national production versus production of a~~
19 ~~separate line for California.~~

20 *SEC. 165. Section 42294 of the Public Resources Code is*
21 *amended to read:*

22 42294. (a) Every wholesaler of plastic trash bags of 1.0 mil
23 or greater thickness sold in this state shall certify to the ~~board~~
24 *Department of Resources Recycling and Recovery* the name and
25 physical location of each manufacturer from whom it purchased
26 plastic trash bags for purposes of inclusion in the annual report
27 required by subdivision (c).

28 (b) On and after January 1, 1995, every wholesaler of trash bags
29 of 0.75 mil or greater thickness sold in this state shall certify to
30 the ~~board~~ *Department of Resources Recycling and Recovery* the
31 name and physical location of each manufacturer from whom it
32 purchased plastic trash bags for purposes of inclusion in the annual
33 report required by subdivision (c).

34 (c) On or before March 1, 1994, and annually thereafter, each
35 wholesaler shall submit a report to the ~~board~~ *Department of*
36 *Resources Recycling and Recovery* containing the certification
37 required by this section for the preceding calendar year, together
38 with any other information that the ~~board~~ *Department of Resources*
39 *Recycling and Recovery* may require by regulation.

1 *SEC. 166. Section 42295 of the Public Resources Code is*
2 *amended to read:*

3 42295. Each supplier, manufacturer, and wholesaler required
4 to provide a certification or any information pursuant to this chapter
5 shall be subject to audit by the ~~board~~ *Department of Resources*
6 *Recycling and Recovery.*

7 *SEC. 167. Section 42296 of the Public Resources Code is*
8 *amended to read:*

9 42296. (a) If any supplier provides a manufacturer with false
10 or misleading information, the ~~board~~ *Department of Resources*
11 *Recycling and Recovery*, within 30 days of determining that fact,
12 shall refer the false or misleading information to the Attorney
13 General for prosecution for fraud.

14 (b) If any manufacturer or wholesaler provides the ~~board~~
15 *Department of Resources Recycling and Recovery* with a false or
16 misleading certification or other information, the ~~board~~ *Department*
17 *of Resources Recycling and Recovery*, within 30 days of
18 determining that fact, shall refer the false or misleading certification
19 or information to the Attorney General for prosecution for fraud.

20 *SEC. 168. Section 42297 of the Public Resources Code is*
21 *amended to read:*

22 42297. (a) The ~~board~~ *Department of Resources Recycling and*
23 *Recovery* may adopt such regulations as it determines are necessary
24 to more specifically define terms for purposes of the chapter and
25 to otherwise implement this chapter.

26 (b) Annually on or before July 1, the ~~board~~ *Department of*
27 *Resources Recycling and Recovery* shall publish a list of any
28 suppliers, manufacturers, or wholesalers who have failed to comply
29 with this chapter.

30 (c) (1) Any supplier, manufacturer, or wholesaler, and any of
31 its divisions, subsidiaries, or successors, who fails to comply with
32 this chapter, shall be ineligible for the award of any state contract
33 or subcontract, or for the renewal, extension, or modification of
34 an existing contract or subcontract, until the ~~board~~ *Department of*
35 *Resources Recycling and Recovery* determines that it is in
36 compliance with this chapter.

37 (2) No state agency shall solicit offers from, award contracts
38 to, or renew, extend, or modify a current contract or subcontract
39 with, any supplier, manufacturer, or wholesaler, or any of its
40 divisions, subsidiaries, or successors, who fails to comply with

1 this chapter until the ~~board~~ *Department of Resources Recycling*
2 *and Recovery* determines that it is in compliance with this chapter.

3 *SEC. 169. Section 42301 of the Public Resources Code is*
4 *amended to read:*

5 42301. For purposes of this chapter, the following definitions
6 apply:

7 (a) "Container manufacturer" means a company or a successor
8 company that sells any rigid plastic packaging container subject
9 to this chapter to a manufacturer that sells or offers for sale in this
10 state any product packaged in that container.

11 (b) "Curbside collection program" means a recycling program
12 that collects materials set out by households for collection at the
13 curb at intervals not less than every two weeks. "Curbside
14 collection program" does not include redemption centers, buyback
15 locations, drop-off programs, material recovery facilities, or plastic
16 recovery facilities.

17 (c) "Refillable package" means a rigid plastic packaging
18 container that the ~~board~~ *Department of Resources Recycling and*
19 *Recovery* determines is routinely returned to and refilled by the
20 product manufacturer at least five times with the original product
21 contained by the package.

22 (d) "Reusable package" means a rigid plastic packaging
23 container that the ~~board~~ *Department of Resources Recycling and*
24 *Recovery* determines is routinely reused by consumers at least five
25 times to store the original product contained by the package.

26 (e) "Manufacturer" means the producer or generator of a product
27 that is sold or offered for sale in the state and that is stored inside
28 of a rigid plastic packaging container.

29 (f) "Rigid plastic packaging container" means any plastic
30 package having a relatively inflexible finite shape or form, with a
31 minimum capacity of eight fluid ounces or its equivalent volume
32 and a maximum capacity of five fluid gallons or its equivalent
33 volume, that is capable of maintaining its shape while holding
34 other products, including, but not limited to, bottles, cartons, and
35 other receptacles, for sale or distribution in the state.

36 (g) "Postconsumer material" means a material that would
37 otherwise be destined for solid waste disposal, having completed
38 its intended end use and product lifecycle. Postconsumer material
39 does not include materials and byproducts generated from, and

1 commonly reused within, an original manufacturing and fabrication
2 process.

3 (h) "Recycled" means a product or material that has been reused
4 in the production of another product and has been diverted from
5 disposal in a landfill.

6 (i) "Recycling rate" means the proportion, as measured by
7 weight, volume, or number, of a rigid plastic packaging container
8 sold or offered for sale in the state that is being recycled in a given
9 calendar year, that is one of the following:

10 (1) A particular type of rigid plastic packaging container, such
11 as a milk jug, soft drink container, or detergent bottle.

12 (2) A product-associated rigid plastic packaging container.

13 (3) A single resin type, as specified in Section 18015, of rigid
14 plastic packaging container, notwithstanding the exemption of that
15 container from this chapter pursuant to subdivision (b), (c), or (d)
16 of Section 42340.

17 (j) (1) "Source reduced container" means either of the
18 following:

19 (A) A rigid plastic packaging container for which the
20 manufacturer seeks compliance as of January 1, 1995, whose
21 package weight per unit or use of product has been reduced by 10
22 percent when compared with the packaging used for that product
23 by the manufacturer from January 1, 1990, to December 31, 1994.

24 (B) A rigid plastic container for which the manufacturer seeks
25 compliance after January 1, 1995, whose package weight per unit
26 or use of product has been reduced by 10 percent when compared
27 with one of the following:

28 (i) The packaging used for the product by the manufacturer on
29 January 1, 1995.

30 (ii) The packaging used for that product by the manufacturer
31 over the course of the first full year of commerce in this state.

32 (iii) The packaging used in commerce that same year for similar
33 products whose containers have not been considered source
34 reduced.

35 (2) A rigid plastic packaging container is not a source reduced
36 container for the purposes of this chapter if the packaging reduction
37 was achieved by any of the following:

38 (A) Substituting a different material type for a material that
39 previously constituted the principal material of the container.

1 (B) Increasing a container's weight per unit or use of product
2 after January 1, 1991.

3 (C) Packaging changes that adversely affect the potential for
4 the rigid plastic packaging container to be recycled or to be made
5 of postconsumer material.

6 (k) "Product-associated rigid plastic packaging container" means
7 a brand-specific, rigid plastic packaging line that may have one or
8 more sizes, shapes, or designs and that is used in conjunction with
9 a particular generic product line.

10 (l) "PETE" means polyethylene terephthalate as specified in
11 subdivision (a) of Section 18015.

12 (m) "HDPE" means high-density polyethylene.

13 *SEC. 170. Section 42310 of the Public Resources Code is*
14 *amended to read:*

15 42310. Except as otherwise provided in this chapter, every
16 rigid plastic packaging container sold or offered for sale in this
17 state shall, on average, meet one of the following criteria:

18 (a) Be made from 25 percent postconsumer material.

19 (b) Have a recycling rate of 45 percent if it is a
20 product-associated rigid plastic packaging container or a single
21 resin type of rigid plastic packaging container, as demonstrated to
22 the ~~board~~ Department of Resources Recycling and Recovery by
23 the product maker, container manufacturer, or other entity. The
24 ~~board~~ Department of Resources Recycling and Recovery may take
25 appropriate action to verify the demonstration, but the ~~board~~
26 Department of Resources Recycling and Recovery is not required
27 to expend state funds to conduct a survey or calculate the rate.

28 (c) Be a reusable package or a refillable package.

29 (d) Be a source reduced container.

30 (e) Is a container containing floral preservative that is
31 subsequently reused by the floral industry for at least two years.

32 *SEC. 171. Section 42310.1 of the Public Resources Code is*
33 *amended to read:*

34 42310.1. (a) Until January 1, 1997, the criteria specified in
35 Section 42310 shall not apply to any rigid plastic packaging
36 container that is manufactured for use with food or cosmetics, as
37 defined in subdivisions (f) and (i) of Section 321 of Title 21 of the
38 United States Code.

(b) Notwithstanding subdivision (a), rigid plastic packaging containers actually recycled shall be included in calculating the recycling rate pursuant to subdivision (b) or (c) of Section 42310.

(c) Every manufacturer of a product packaged in a rigid plastic packaging container described in subdivision (a), which is not in compliance with Section 42310, that is exempt from the criteria specified in Section 42310 pursuant to subdivision (a), shall do both of the following:

(1) On or before December 1, 1995, the manufacturer shall submit a report to the ~~board~~ *Department of Resources Recycling and Recovery* which demonstrates that the manufacturer is taking, and will continue to take, all feasible actions consistent with Section 42310 to ensure the reduction, recycling, or reuse of the rigid plastic packaging containers described in subdivision (a) and the development and expansion of markets for rigid plastic packaging containers. Those actions may include, but are not limited to, all of the following:

(A) The use of postconsumer recycled plastic in rigid plastic packaging containers sold in this state.

(B) The use of postconsumer recycled plastic in other packaging materials sold or manufactured in this state.

(C) The use of postconsumer recycled plastic in other products sold or manufactured in this state.

(D) Arranging for the use of postconsumer recycled plastic collected for recycling in this state in the manufacture of nonrigid plastic packaging container products or packaging of another entity.

(E) The procurement of products containing postconsumer recycled plastic, including, but not limited to, trash bags, trash containers, pallets, carpeting, slip sheets, and shrink wrap.

(F) The demonstration of financial investment in recycled plastic collecting, processing, and remanufacturing activities in the state.

(2) On or before January 1, 1996, every manufacturer of rigid plastic packaging containers shall, for any rigid plastic packaging container that is exempt from, and not in compliance with, the criteria specified in Section 42310 pursuant to subdivision (a), diligently seek one or more “nonobjection letters” from the United States Food and Drug Administration which will permit the manufacturer of rigid plastic packaging containers to use recycled plastic in the manufacture of the rigid plastic packaging containers described in subdivision (a).

1 *SEC. 172. Section 42310.2 of the Public Resources Code is*
2 *amended to read:*

3 42310.2. (a) On or before July 1, 1994, as part of the
4 regulations required to be adopted pursuant to Section 42325, the
5 ~~board~~ *Department of Resources Recycling and Recovery* shall
6 adopt regulations to carry out the requirements of paragraph (1)
7 of subdivision (c) of Section 42310.1. In adopting regulations
8 pursuant to this section, the ~~board~~ *Department of Resources*
9 *Recycling and Recovery* shall make every effort to limit paperwork
10 and information to only those matters that are needed for the ~~board~~
11 *Department of Resources Recycling and Recovery* to determine if
12 manufacturers are taking all feasible actions to ensure the reduction,
13 recycling, or reuse of the rigid plastic packaging containers
14 described in subdivision (a) of Section 42310.1, and the
15 development and expansion of markets for rigid plastic packaging
16 containers.

17 (b) On or before February 1, 1996, the ~~board~~ *Department of*
18 *Resources Recycling and Recovery* shall review, and approve or
19 disapprove, the reports required pursuant to paragraph (1) of
20 subdivision (c) of Section 42310.1. If a report is not submitted
21 pursuant to a schedule established by the ~~board~~ *Department of*
22 *Resources Recycling and Recovery*, or, if, based upon the report,
23 the ~~board~~ *Department of Resources Recycling and Recovery*
24 determines that a manufacturer has not taken all feasible actions
25 to ensure the reduction, recycling, or reuse of the containers and
26 the development and expansion of markets for rigid plastic
27 packaging containers, the ~~board~~ *Department of Resources*
28 *Recycling and Recovery* may take one of the following actions, as
29 selected by the manufacturer:

30 (1) Require the manufacturer to take additional actions,
31 including, but not limited to, one or more of the measures described
32 in paragraph (1) of subdivision (c) of Section 42310.1, to ensure
33 that the manufacturer is taking, and will continue to take, all
34 feasible actions to ensure the reduction, recycling, or reuse of the
35 containers and the development and expansion of markets for rigid
36 plastic packaging containers.

37 (2) Impose a civil penalty of up to one hundred thousand dollars
38 (\$100,000) pursuant to Section 42322. In imposing monetary
39 penalties pursuant to this paragraph, the ~~board~~ *Department of*

1 *Resources Recycling and Recovery* shall take into consideration
2 all of the following factors:

3 (A) The size and net worth of the manufacturer.

4 (B) The impact of the violation on the overall objectives of this
5 chapter.

6 (C) The severity of the violation. A penalty imposed pursuant
7 to this paragraph shall not be required to be paid by a manufacturer
8 before January 1, 1997.

9 (c) If the ~~board~~ *Department of Resources Recycling and*
10 *Recovery* determines that the conditions in paragraphs (1) and (2)
11 are met, the ~~board~~ *Department of Resources Recycling and*
12 *Recovery* shall enter into a contract, or other legally binding
13 agreement, with one or more trade associations representing
14 manufacturers of resin, manufacturers of rigid plastic packaging
15 containers, or manufacturers of products packaged in rigid plastic
16 packaging containers subject to this section and Section 42310.1.
17 The agreement shall allow the trade association, in lieu of those
18 individual manufacturers in the trade association who elect to be
19 a party to the contract or agreement, to submit the report required
20 pursuant to paragraph (1) of subdivision (c) of Section 42310.1
21 and to implement the actions identified in the report. The ~~board~~
22 *Department of Resources Recycling and Recovery* shall enter into
23 the agreement only if both of the following conditions exist:

24 (1) The agreement ensures that the report will contain sufficient
25 information that otherwise would be required to be submitted by
26 individual manufacturers pursuant to Section 42310.1, and any
27 other information that is necessary and directly related to the
28 ~~board's~~ *Department of Resources Recycling and Recovery's* ability
29 to comply with this section.

30 (2) The agreement ensures that each manufacturer that elects
31 to be a party to the agreement and that is a member of the trade
32 association that submits the report shall be liable for the full amount
33 of any civil penalties that may be imposed or shall comply with
34 any requirement imposed by the ~~board~~ *Department of Resources*
35 *Recycling and Recovery* pursuant to paragraph (1) of subdivision
36 (b), as selected by the manufacturer. A manufacturer subject to
37 this paragraph shall not be liable for a civil penalty greater than
38 one hundred thousand dollars (\$100,000), regardless of the number
39 of trade associations of which the manufacturer is a member.

(d) Notwithstanding any other provision of this section, a trade association representing resin manufacturers shall be responsible for submitting an additional report as provided pursuant to paragraph (1) of subdivision (c) of Section 42310.1. The resin manufacturer's trade association is subject to the review, penalties, and sanctions specified in paragraphs (1) and (2) of subdivision (b). No member of the resin manufacturer's trade association is liable for penalties and sanctions set forth in paragraph (1) or (2) of subdivision (b) pursuant to this subdivision if that member would not otherwise be subject to those penalties and sanctions.

(e) For the purposes of subdivision (b) and paragraph (1) of subdivision (c) of Section 42310.1, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(f) For purposes of Section 42310.1 and this section regarding all reporting, compliance, and penalty obligations, "manufacturer" includes all subsidiaries and affiliates.

SEC. 173. Section 42310.3 of the Public Resources Code is amended to read:

42310.3. (a) Notwithstanding Section 42310, a manufacturer is in compliance with this chapter if the manufacturer demonstrates through its own actions, or the actions of another company under the same corporate ownership, that one of the following actions were taken during the same period for which the manufacturer is subject to this chapter, with regard to a rigid plastic packaging container that stores the manufacturer's product that is sold or intended for sale in this state:

(1) The manufacturer, or another company under the same corporate ownership, consumed postconsumer material generated in the state in the manufacture of a rigid plastic packaging container subject to Section 42310, or a rigid plastic packaging container or other plastic products or plastic packaging not subject to that section, and that is equivalent to, or exceeds the postconsumer material that the rigid plastic packaging container is otherwise required to contain, as specified in subdivision (a) of Section 42310.

(2) The manufacturer, or any company under the same corporate ownership, arranged by contractual agreement for the purchase and consumption of postconsumer material generated in the state

1 and exported to another state for the manufacture of a rigid plastic
2 packaging container subject to Section 42310, or a rigid plastic
3 packaging container or other plastic products or plastic packaging
4 not subject to that section that is equivalent to, or exceeds the
5 postconsumer material that the rigid plastic packaging container
6 is otherwise required to contain, as specified in subdivision (a) of
7 Section 42310.

8 (b) ~~The board~~ *Department of Resources Recycling and Recovery*
9 shall determine the manner of demonstrating compliance with this
10 section.

11 *SEC. 174. Section 42320 of the Public Resources Code is*
12 *amended to read:*

13 42320. Any entity required to make a certification pursuant to
14 this chapter may be audited by the ~~board~~ *Department of Resources*
15 *Recycling and Recovery*.

16 *SEC. 175. Section 42321 of the Public Resources Code is*
17 *amended to read:*

18 42321. If any entity provides the ~~board~~ *Department of*
19 *Resources Recycling and Recovery* with a false or misleading
20 certificate pursuant to this chapter, the ~~board~~ *Department of*
21 *Resources Recycling and Recovery*, within 30 days of making this
22 determination, shall refer the provider of the false or misleading
23 certificate to the Attorney General for prosecution for fraud.

24 *SEC. 176. Section 42322 of the Public Resources Code is*
25 *amended to read:*

26 42322. (a) Any violation of this chapter is a public offense
27 punishable by a fine of not more than one hundred thousand dollars
28 (\$100,000).

29 (b) In addition to the penalty specified under subdivision (a),
30 any violation of this chapter may be subject to a civil penalty
31 assessed by the ~~board~~ *Department of Resources Recycling and*
32 *Recovery* of not more than fifty thousand dollars (\$50,000) for
33 each violation, pursuant to a notice and hearing procedure that
34 conforms with Chapter 5 (commencing with Section 11500) of
35 Part 1 of Division 3 of Title 2 of the Government Code.

36 (c) The total annual fines or penalties assessed upon a violator
37 of this chapter shall not exceed one hundred thousand dollars
38 (\$100,000).

39 (d) ~~The board~~ *Department of Resources Recycling and Recovery*
40 shall annually publish a list by July 1 setting forth any fines or

1 penalties that have been levied against a violator of this chapter
2 in the preceding calendar year, for failure to comply with the
3 requirements of this chapter.

4 (e) ~~The board~~ *Department of Resources Recycling and Recovery*
5 shall deposit all penalties or fines paid pursuant to this section into
6 the Rigid Container Account, which is hereby created in the
7 Integrated Waste Management Fund in the State Treasury. The
8 moneys deposited in the Rigid Container Account shall be
9 expended by ~~the board~~ *Department of Resources Recycling and*
10 *Recovery*, upon appropriation by the Legislature, to assist local
11 governmental agencies to develop and implement collection and
12 processing systems for the recycling of materials that are subject
13 to this chapter, for the development of markets for these materials,
14 and for ~~the board's~~ *Department of Resources Recycling and*
15 *Recovery's* costs of implementing this chapter.

16 *SEC. 177. Section 42323 of the Public Resources Code is*
17 *amended to read:*

18 42323. Proprietary information included in part of a report or
19 certificate submitted to ~~the board~~ *Department of Resources*
20 *Recycling and Recovery* pursuant to this chapter shall not be made
21 available to the general public.

22 *SEC. 178. Section 42325 of the Public Resources Code is*
23 *amended to read:*

24 42325. ~~The board~~ *Department of Resources Recycling and*
25 *Recovery* shall adopt regulations to implement this chapter. These
26 regulations shall include, but shall not be limited to, all of the
27 following:

28 (a) Procedures for certifying compliance with Article 2
29 (commencing with Section 42310), including a requirement that
30 product manufacturers include in their specifications for rigid
31 plastic packaging containers a requirement that the packaging
32 manufacturer certify that the rigid plastic packaging containers
33 comply with this chapter.

34 (b) Procedures for considering and granting waivers pursuant
35 to Article 4 (commencing with Section 42330).

36 *SEC. 179. Section 42326 of the Public Resources Code is*
37 *amended to read:*

38 42326. In developing the regulations required by Section 42325,
39 ~~the board~~ *Department of Resources Recycling and Recovery* shall
40 consult with representatives of the manufacturers affected by this

1 chapter, with representatives of environmental organizations, and
2 other interested parties.

3 *SEC. 180. Section 42327 of the Public Resources Code is*
4 *amended to read:*

5 42327. The ~~board~~ *Department of Resources Recycling and*
6 *Recovery* may expend funds from the Integrated Waste
7 Management Account to implement this chapter, upon
8 appropriation by the Legislature.

9 *SEC. 181. Section 42330 of the Public Resources Code is*
10 *amended to read:*

11 42330. (a) The ~~board~~ *Department of Resources Recycling and*
12 *Recovery* shall grant a waiver from the postconsumer material
13 content requirement of subdivision (a) of Section 42310, but not
14 from any other requirement of Section 42310, if the ~~board~~
15 *Department of Resources Recycling and Recovery* finds one or
16 more of the following:

17 (1) The rigid plastic packaging containers cannot meet the
18 postconsumer material requirements of subdivision (a) of Section
19 42310 and remain in compliance with applicable provisions of
20 regulations adopted by the Food and Drug Administration or other
21 state or federal laws or regulations.

22 (2) It is technologically infeasible to use rigid plastic packaging
23 containers that achieve the postconsumer material requirement of
24 subdivision (a) of Section 42310.

25 (b) The ~~board~~ *Department of Resources Recycling and Recovery*
26 shall grant a waiver from all of the requirements of Section 42310
27 if the ~~board~~ *Department of Resources Recycling and Recovery*
28 finds either of the following:

29 (1) Less than 60 percent of the single-family homes in the state
30 on and after January 1, 1994, have curbside collection programs
31 that include beverage container recycling.

32 (2) At least 50 percent, by number, of a manufacturer's rigid
33 plastic packaging containers sold or offered for sale in the state in
34 the current calendar year achieve the postconsumer material
35 requirements of subdivision (a) of Section 42310 and all of the
36 manufacturer's rigid plastic packaging containers will comply with
37 the requirements of Section 42310 on or before January 1, 1996.

38 (c) The ~~board~~ *Department of Resources Recycling and Recovery*
39 shall grant a one-year waiver from all of the requirements of
40 Section 42310 for products packaged in rigid plastic packaging

1 containers that are introduced and sold in this state after January
2 1, 1995.

3 *SEC. 182. Section 42356.1 of the Public Resources Code is*
4 *amended to read:*

5 42356.1. (a) If an ASTM standard specification specified in
6 paragraph (1) of subdivision (b) of Section 42356 is subsequently
7 revised, the ~~board~~ *Department of Resources Recycling and*
8 *Recovery* shall review the new ASTM standard specification as
9 follows:

10 (1) If the ~~board~~ *Department of Resources Recycling and*
11 *Recovery* determines that the new standard is more stringent and
12 more protective of the public health, safety, and the environment,
13 and is reflective of and consistent with state policies and programs,
14 the ~~board~~ *Department of Resources Recycling and Recovery* may
15 adopt the new standard.

16 (2) If the ~~board~~ *Department of Resources Recycling and*
17 *Recovery* determines that the new standard is not as stringent and
18 does not protect the public health, safety, and the environment,
19 and is not reflective of and consistent with state policies and
20 programs, the ~~board~~ *Department of Resources Recycling and*
21 *Recovery* shall not adopt the new standard.

22 (b) If the ASTM, or any other entity, develops a new standard
23 specification or other applicable standard for any of the terms
24 prohibited under subdivision (a) of Section 42357, the ~~board~~
25 *Department of Resources Recycling and Recovery* may review the
26 new standard and, if the ~~board~~ *Department of Resources Recycling*
27 *and Recovery* determines that the new standard for the prohibited
28 term is more stringent and more protective of the public health,
29 safety, and the environment, and is reflective of and consistent
30 with state policies and programs, the ~~board~~ *Department of*
31 *Resources Recycling and Recovery* may make a recommendation
32 to the Legislature.

33 (c) Compliance with a standard adopted pursuant to paragraph
34 (1) of subdivision (a) shall be deemed to be in compliance with
35 this chapter.

36 *SEC. 183. Section 42359.7 of the Public Resources Code is*
37 *amended to read:*

38 42359.7. (a) If an ASTM standard specification specified in
39 subdivision (b) of Section 42359.5 is subsequently revised, the

1 ~~board~~ Department of Resources Recycling and Recovery shall
2 review the new ASTM standard specification as follows:

3 (1) If the ~~board~~ Department of Resources Recycling and
4 Recovery determines that the new standard is more stringent and
5 more protective of the public health, safety, and the environment,
6 and is reflective of and consistent with state policies and programs,
7 the ~~board~~ Department of Resources Recycling and Recovery may
8 adopt the new standard.

9 (2) If the ~~board~~ Department of Resources Recycling and
10 Recovery determines that the new standard is not as stringent and
11 does not protect the public health, safety, and the environment,
12 and is not reflective of and consistent with state policies and
13 programs, the ~~board~~ Department of Resources Recycling and
14 Recovery shall not adopt the new standard.

15 (b) If the ASTM, or any other entity, develops a new standard
16 specification, or another applicable standard, for any of the terms
17 prohibited under subdivision (a) of Section 42359.6, the ~~board~~
18 Department of Resources Recycling and Recovery may review the
19 new standard and, if the ~~board~~ Department of Resources Recycling
20 and Recovery determines that the new standard for that prohibited
21 term is more stringent and more protective of the public health,
22 safety, and the environment, and is reflective of and consistent
23 with state policies and programs, the ~~board~~ Department of
24 Resources Recycling and Recovery may make a recommendation
25 to the Legislature.

26 (c) Compliance with a standard adopted pursuant to paragraph
27 (1) of subdivision (a) shall be deemed to be in compliance with
28 this chapter.

29 SEC. 184. Section 42410 of the Public Resources Code is
30 amended to read:

31 42410. The ~~board~~ Department of Resources Recycling and
32 Recovery shall evaluate current state and federal quality standards
33 for retreaded tires and identify the obstacles for an increased market
34 for retreads. The results of this evaluation and the activities that
35 the ~~board~~ Department of Resources Recycling and Recovery will
36 undertake to increase the use of retreaded tires shall be included
37 in the reporting requirements specified in Section 42950.

38 SEC. 185. Section 42411 of the Public Resources Code is
39 amended to read:

1 42411. The Department of General Services and the ~~board~~
2 *Department of Resources Recycling and Recovery* in consultation
3 with representatives of the California retreading industry, shall
4 adopt specifications for the purchase of retreaded tires by the State
5 of California. The specifications shall designate the state minimum
6 quality standards for retreaded tires. The specifications shall be
7 designed to maximize the use of retreads without jeopardizing the
8 safety of the occupants of the vehicle or the intended end use of
9 the tire.

10 *SEC. 186. Section 42414 of the Public Resources Code is*
11 *amended to read:*

12 42414. The number of retreaded tires purchased annually by
13 the Department of General Services during each fiscal year shall
14 be tabulated and forwarded to the ~~board~~ *Department of Resources*
15 *Recycling and Recovery* by August 31 every year.

16 *SEC. 187. Section 42415 of the Public Resources Code is*
17 *amended to read:*

18 42415. The ~~board~~ *Department of Resources Recycling and*
19 *Recovery* in consultation with the Department of General Services,
20 shall perform a study to determine if the retreads, procured by the
21 Department of General Services, have met all quality and
22 performance criteria of a new tire.

23 *SEC. 188. Section 42416 of the Public Resources Code is*
24 *repealed.*

25 ~~42416. On or before July 1, 1991, the board shall, in~~
26 ~~consultation with the retreading industry, develop a procedure to~~
27 ~~estimate the number of retreads sold in California. This~~
28 ~~information, in addition to other facts compiled on the utilization~~
29 ~~of retread tires, shall be used to evaluate the effectiveness of this~~
30 ~~program. The results of that evaluation shall be included in the~~
31 ~~report required pursuant to Section 40507.~~

32 *SEC. 189. Section 42441 of the Public Resources Code is*
33 *amended to read:*

34 42441. "Recycled lead-acid battery" means any lead-acid
35 battery which contains a minimum percentage of postconsumer
36 recovered lead. The required minimum percentage of postconsumer
37 recovered lead shall be determined by the ~~board~~ *Department of*
38 *Toxics and Waste Management* in consultation with the Market
39 Development Commission.

1 *SEC. 190. Section 42443 of the Public Resources Code is*
2 *amended to read:*

3 42443. The number of recycled lead-acid batteries purchased
4 each year by the Department of General Services shall be tabulated
5 and forwarded to the ~~board~~ *Department of Toxics and Waste*
6 *Management* on or before March 31 of each year.

7 *SEC. 191. Section 42450 of the Public Resources Code is*
8 *amended to read:*

9 42450. (a) The ~~board~~ *Department of Toxics and Waste*
10 *Management* may conduct a study on the disposal and recyclability
11 of household batteries, taking into account any studies completed
12 or underway elsewhere, including, but not limited to, any studies
13 by the Environmental Protection Agency. The ~~board~~ *Department*
14 *of Resources Recycling and Recovery* may participate in the study.

15 (b) The study may include, but is not limited to, all of the
16 following:

17 (1) The effect of used household batteries on solid waste landfills
18 and transformation facilities, including any threats to human health
19 or environment.

20 (2) The recyclability of used household batteries, including, but
21 not limited to, the following topics:

22 (A) Applicable recycling technologies and their effectiveness.

23 (B) Collection systems.

24 (C) Possible adverse effects on human health or the environment
25 resulting from exposure to household batteries at all stages of the
26 recycling process.

27 (D) Costs and revenues associated with recycling, including
28 avoided disposal costs.

29 (E) Development of markets for products derived from recycled
30 household batteries.

31 (c) For the purposes of this section, “household batteries” means
32 batteries made of mercury, alkaline, carbon-zinc, nickel-cadmium,
33 and other batteries typically generated as household waste,
34 including, but not limited to, batteries used in hearing aids,
35 cameras, watches, computers, calculators, flashlights, lanterns,
36 standby and emergency lighting, portable radio and television sets,
37 meters, toys, and clocks, but excluding lead-acid batteries as
38 defined in Section 42440.

39 *SEC. 192. Section 42461 of the Public Resources Code is*
40 *amended to read:*

1 42461. The Legislature finds and declares all of the following:

2 (a) The purpose of this chapter is to enact a comprehensive and
3 innovative system for the reuse, recycling, and proper and legal
4 disposal of covered electronic devices, and to provide incentives
5 to design electronic devices that are less toxic, more recyclable,
6 and that use recycled materials.

7 (b) It is the further purpose of this chapter to enact a law that
8 establishes a program that is cost free and convenient for consumers
9 and the public to return, recycle, and ensure the safe and
10 environmentally-sound disposal of covered electronic devices.

11 (c) It is the intent of the Legislature that the cost associated with
12 the handling, recycling, and disposal of covered electronic devices
13 is the responsibility of the producers and consumers of covered
14 electronic devices, and not local government or their service
15 providers, state government, or taxpayers.

16 (d) In order to reduce the likelihood of illegal disposal of these
17 hazardous materials, it is the intent of this chapter to ensure that
18 any cost associated with the proper management of covered
19 electronic devices be internalized by the producers and consumers
20 of covered electronic devices at or before the point of purchase,
21 and not at the point of discard.

22 (e) Manufacturers of covered electronic devices, in working to
23 achieve the goals and objectives of this chapter, should have the
24 flexibility to partner with each other and with those public sector
25 entities and business enterprises that currently provide collection
26 and processing services to develop and promote a safe and effective
27 covered electronic device recycling system for California.

28 (f) The producers of electronic products, components, and
29 devices should reduce and, to the extent feasible, ultimately phase
30 out the use of hazardous materials in those products.

31 (g) Electronic products, components, and devices, to the greatest
32 extent feasible, should be designed for extended life, repair, and
33 reuse.

34 (h) The purpose of the Hazardous Electronic Waste Recycling
35 Act is to provide sufficient funding for the safe, cost-free, and
36 convenient collection and recycling of 100 percent of the covered
37 electronic waste discarded or offered for recycling in the state, to
38 eliminate electronic waste stockpiles and legacy devices by
39 December 31, 2007, to end the illegal disposal of covered electronic
40 devices, to establish manufacturer responsibility for reporting to

1 the ~~board~~ *California Integrated Waste Management Board* on the
2 manufacturer's efforts to phase out hazardous materials in
3 electronic devices and increase the use of recycled materials, and
4 to ensure that electronic devices sold in the state do not violate the
5 regulations adopted by the ~~Department of Toxic Substances Control~~
6 *Department of Toxics and Waste Management* pursuant to Section
7 25214.10 of the Health and Safety Code. *On and after January 1,*
8 *2010, manufacturers shall report the required information to the*
9 *Department of Toxics and Waste Management.*

10 SEC. 193. *Section 42463 of the Public Resources Code is*
11 *amended to read:*

12 42463. For the purposes of this chapter, the following terms
13 have the following meanings, unless the context clearly requires
14 otherwise:

15 (a) "Account" means the Electronic Waste Recovery and
16 Recycling Account created in the Integrated Waste Management
17 Fund under Section 42476.

18 (b) "Authorized collector" means any of the following:

19 (1) A city, county, or district that collects covered electronic
20 devices.

21 (2) A person or entity that is required or authorized by a city,
22 county, or district to collect covered electronic devices pursuant
23 to the terms of a contract, license, permit, or other written
24 authorization.

25 (3) A nonprofit organization that collects or accepts covered
26 electronic devices.

27 (4) A manufacturer or agent of the manufacturer that collects,
28 consolidates, and transports covered electronic devices for
29 recycling from consumers, businesses, institutions, and other
30 generators.

31 (5) An entity that collects, handles, consolidates, and transports
32 covered electronic devices and has filed applicable notifications
33 with the department pursuant to Chapter 23 (commencing with
34 Section 66273.1) of Division 4.5 of Title 22 of the California Code
35 of Regulations.

36 (e) ~~"Board" means the California Integrated Waste Management~~
37 ~~Board.~~

38 (d)

39 (c) "Consumer" means a person who purchases a new or
40 refurbished covered electronic device in a transaction that is a

1 retail sale or in a transaction to which a use tax applies pursuant
2 to Part 1 (commencing with Section 6001) of Division 2 of the
3 Revenue and Taxation Code.

4 ~~(e)~~

5 ~~(d) “Department” means the Department of Toxic Substances~~
6 ~~Control Department of Toxics and Waste Management.~~

7 ~~(f)~~

8 (e) (1) Except as provided in paragraph (2), “covered electronic
9 device” means a video display device containing a screen greater
10 than four inches, measured diagonally, that is identified in the
11 regulations adopted by the department pursuant to subdivision (b)
12 of Section 25214.10.1 of the Health and Safety Code.

13 (2) “Covered electronic device” does not include any of the
14 following:

15 (A) A video display device that is a part of a motor vehicle, as
16 defined in Section 415 of the Vehicle Code, or any component
17 part of a motor vehicle assembled by, or for, a vehicle manufacturer
18 or franchised dealer, including replacement parts for use in a motor
19 vehicle.

20 (B) A video display device that is contained within, or a part of
21 a piece of industrial, commercial, or medical equipment, including
22 monitoring or control equipment.

23 (C) A video display device that is contained within a clothes
24 washer, clothes dryer, refrigerator, refrigerator and freezer,
25 microwave oven, conventional oven or range, dishwasher, room
26 air-conditioner, dehumidifier, or air purifier.

27 (D) An electronic device, on and after the date that it ceases to
28 be a covered electronic device under subdivision (e) of Section
29 25214.10.1 of the Health and Safety Code.

30 ~~(g)~~

31 (f) “Covered electronic waste” or “covered e-waste” means a
32 covered electronic device that is discarded.

33 ~~(h)~~

34 (g) “Covered electronic waste recycling fee” or “covered e-waste
35 recycling fee” means the fee imposed pursuant to Article 3
36 (commencing with Section 42464).

37 ~~(i)~~

38 (h) “Covered electronic waste recycler” or “covered e-waste
39 recycler” means any of the following:

1 (1) A person who engages in the manual or mechanical
2 separation of covered electronic devices to recover components
3 and commodities contained therein for the purpose of reuse or
4 recycling.

5 (2) A person who changes the physical or chemical composition
6 of a covered electronic device, in accordance with the requirements
7 of Chapter 6.5 (commencing with Section 25100) of Division 20
8 of the Health and Safety Code and the regulations adopted pursuant
9 to that chapter, by deconstructing, size reduction, crushing, cutting,
10 sawing, compacting, shredding, or refining for purposes of
11 segregating components, for purposes of recovering or recycling
12 those components, and who arranges for the transport of those
13 components to an end user.

14 (3) A manufacturer who meets any conditions established by
15 this chapter and Chapter 6.5 (commencing with Section 25100)
16 of Division 20 of the Health and Safety Code for the collection or
17 recycling of covered electronic waste.

18 ~~(j)~~

19 (i) “Discarded” has the same meaning as defined in subdivision
20 (b) of Section 25124 of the Health and Safety Code.

21 ~~(k)~~

22 (j) “Electronic waste recovery payment” means an amount
23 established and paid by the ~~board~~ *Department of Toxics and Waste*
24 *Management* pursuant to Section 42477.

25 ~~(l)~~

26 (k) “Electronic waste recycling payment” means an amount
27 established and paid by the ~~board~~ *Department of Toxics and Waste*
28 *Management* pursuant to Section 42478.

29 ~~(m)~~

30 (l) “Hazardous material” has the same meaning as defined in
31 Section 25501 of the Health and Safety Code.

32 ~~(n)~~

33 (m) “Manufacturer” means either of the following:

34 (1) A person who manufactures a covered electronic device sold
35 in this state.

36 (2) A person who sells a covered electronic device in this state
37 under that person’s brand name.

38 ~~(o)~~

39 (n) “Person” means an individual, trust firm, joint stock
40 company, business concern, and corporation, including, but not

1 limited to, a government corporation, partnership, limited liability
2 company, and association. Notwithstanding Section 40170,
3 “person” also includes a city, county, city and county, district,
4 commission, the state or a department, agency, or political
5 subdivision thereof, an interstate body, and the United States and
6 its agencies and instrumentalities to the extent permitted by law.

7 ~~(p)~~

8 (o) “Recycling” has the same meaning as defined in subdivision
9 (a) of Section 25121.1 of the Health and Safety Code.

10 ~~(q)~~

11 (p) “Refurbished,” when used to describe a covered electronic
12 device, means a device that the manufacturer has tested and
13 returned to a condition that meets factory specifications for the
14 device, has repackaged, and has labeled as refurbished.

15 ~~(r)~~

16 (q) “Retailer” means a person who makes a retail sale of a new
17 or refurbished covered electronic device. “Retailer” includes a
18 manufacturer of a covered electronic device who sells that covered
19 electronic device directly to a consumer through any means,
20 including, but not limited to, a transaction conducted through a
21 sales outlet, catalog, or the Internet, or any other similar electronic
22 means.

23 ~~(s)~~

24 (r) (1) “Retail sale” has the same meaning as defined under
25 Section 6007 of the Revenue and Taxation Code.

26 (2) “Retail sale” does not include the sale of a covered electronic
27 device that is temporarily stored or used in California for the sole
28 purpose of preparing the covered electronic device for use
29 thereafter solely outside the state, and that is subsequently
30 transported outside the state and thereafter used solely outside the
31 state.

32 ~~(t)~~

33 (s) “Vendor” means a person that makes a sale of a covered
34 electronic device for the purpose of resale to a retailer who is the
35 lessor of the covered electronic device to a consumer under a lease
36 that is a continuing sale and purchase pursuant to Part 1
37 (commencing with Section 6001) of Division 2 of the Revenue
38 and Taxation Code.

39 ~~(u)~~

(t) “Video display device” means an electronic device with an output surface that displays, or is capable of displaying, moving graphical images or a visual representation of image sequences or pictures, showing a number of quickly changing images on a screen in fast succession to create the illusion of motion, including, if applicable, a device that is an integral part of the display, in that it cannot be easily removed from the display by the consumer, that produces the moving image on the screen. A video display device may use, but is not limited to, a cathode ray tube (CRT), liquid crystal display (LCD), gas plasma, digital light processing, or other image projection technology.

SEC. 194. Section 42464 of the Public Resources Code is amended to read:

42464. (a) On and after January 1, 2005, or as otherwise provided by Section 25214.10.1 of the Health and Safety Code, a consumer shall pay a covered electronic waste recycling fee upon the purchase of a new or refurbished covered electronic device, in the following amounts:

(1) Six dollars (\$6) for each covered electronic device with a screen size of less than 15 inches measured diagonally.

(2) Eight dollars (\$8) for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.

(3) Ten dollars (\$10) for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

(b) Except as provided in subdivision (d), a retailer shall collect from the consumer a covered electronic waste recycling fee at the time of the retail sale of a covered electronic device.

(c) (1) A retailer may retain 3 percent of the covered electronic waste recycling fee as reimbursement for all costs associated with the collection of the fee and shall transmit the remainder of the fee to the state pursuant to Section 42464.4.

(2) If a retailer makes an election pursuant to paragraph (2) of subdivision (d), and the conditions of subparagraphs (A), (B), and (C) of paragraph (2) of subdivision (d) are met, the vendor, in lieu of the retailer, may retain 3 percent of the covered electronic waste recycling fee as reimbursement for all costs associated with the collection of the fee and the vendor shall transmit the remainder of the fee to the state pursuant to Section 42464.4.

(d) (1) If a retailer elects to pay the covered electronic waste recycling fee on behalf of the consumer, the retailer shall provide an express statement to that effect on the receipt given to the consumer at the time of sale. If a retailer elects to pay the covered electronic waste recycling fee on behalf of the consumer, the fee is a debt owed by the retailer to the state, and the consumer is not liable for the fee.

(2) A retailer may elect to pay the covered electronic waste recycling fee on behalf of the consumer by paying the covered electronic waste recycling fee to the retailer's vendor, but only if all of the following conditions are met:

(A) The vendor is registered with the State Board of Equalization to collect and remit the covered electronic waste recycling fee pursuant to this chapter.

(B) The vendor holds a valid seller's permit pursuant to Article 2 (commencing with Section 6066) of Chapter 2 of Part 1 of Division 2 of the Revenue and Taxation Code.

(C) The retailer pays the covered electronic waste recycling fee to the vendor that is separately stated on the vendor's invoice to the retailer.

(D) The retailer provides an express statement on the invoice, contract, or other record documenting the sale that is given to the consumer, that the covered electronic waste recycling fee has been paid on behalf of the consumer.

(3) For the purpose of making the election in paragraph (2), if the conditions set forth in subparagraphs (A), (B), (C), and (D) of paragraph (2), are met, the covered electronic waste recycling fee is a debt owed by the vendor to the state, and the retailer is not liable for the fee.

(e) The retailer shall separately state the covered electronic waste recycling fee on the receipt given to the consumer at the time of sale.

(f) On or before August 1, 2005, and, thereafter, no more frequently than annually, and no less frequently than biennially, ~~the board, in collaboration with the department,~~ shall review, at a public hearing, the covered electronic waste recycling fee and shall make any adjustments to the fee to ensure that there are sufficient revenues in the account to fund the covered electronic waste recycling program established pursuant to this chapter. Adjustments to the fee that are made on or before August 1, shall apply to the

1 calendar year beginning the following January 1. ~~The board~~
2 ~~department~~ shall base an adjustment of the covered electronic
3 waste recycling fee on both of the following factors:

4 (1) The sufficiency, and any surplus, of revenues in the account
5 to fund the collection, consolidation, and recycling of covered
6 electronic waste that is projected to be recycled in the state.

7 (2) The sufficiency of revenues in the account for ~~the board and~~
8 the department to administer, enforce, and promote the program
9 established pursuant to this chapter, plus a prudent reserve not to
10 exceed 5 percent of the amount in the account.

11 *SEC. 195. Section 42465 of the Public Resources Code is*
12 *amended to read:*

13 42465. On and after the date specified in subdivision (a) of
14 Section 42464, a person shall not sell a new or refurbished covered
15 electronic device to a consumer in this state if ~~the board or~~
16 department determines that the manufacturer of that covered
17 electronic device is not in compliance with this chapter or as
18 provided otherwise by Section 25214.10.1 of the Health and Safety
19 Code.

20 *SEC. 196. Section 42474 of the Public Resources Code is*
21 *amended to read:*

22 42474. (a) Civil liability in an amount of up to two thousand
23 five hundred dollars (\$2,500) per offense may be administratively
24 imposed by ~~the board~~ department for each sale of a covered
25 electronic device for which a covered electronic waste recycling
26 fee has not been paid pursuant to Section 42464.

27 (b) A civil penalty in an amount of up to five thousand dollars
28 (\$5,000) per offense may be imposed by a superior court for each
29 sale of a covered electronic device for which a covered electronic
30 waste recycling fee has not been paid pursuant to Section 42464.

31 (c) Civil liability in an amount of up to twenty-five thousand
32 dollars (\$25,000) may be administratively imposed by ~~the board~~
33 department against manufacturers for failure to comply with this
34 chapter, except as otherwise provided in subdivision (a).

35 *SEC. 197. Section 42475 of the Public Resources Code is*
36 *amended to read:*

37 42475. (a) ~~The board~~ department shall administer and enforce
38 this chapter ~~in consultation with the department~~.

39 (b) ~~The board and the~~ department may adopt regulations
40 pursuant to Chapter 3.5 (commencing with Section 11340) of Part

1 1 of Division 3 of Title 2 of the Government Code that are
2 necessary to implement this chapter, and any other regulations that
3 ~~the board and the~~ department determines are necessary to
4 implement the provisions of this chapter in a manner that is
5 enforceable.

6 (c) ~~The board~~ *department* shall adopt regulations pursuant to
7 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
8 3 of Title 2 of the Government Code that ensure the protection of
9 any proprietary information submitted to the ~~board~~ department by
10 a manufacturer of covered electronic devices.

11 (d) ~~The board and the~~ department may prepare, publish, or issue
12 any materials that the ~~board or~~ department determines to be
13 necessary for the dissemination of information concerning the
14 activities of the ~~board or~~ department under this chapter.

15 (e) In carrying out this chapter, ~~the board and the~~ department
16 may solicit and use any and all expertise available in other state
17 agencies, including, but not limited to, the department, the
18 *Department of Resources Recycling and Recovery*, and the State
19 Board of Equalization.

20 *SEC. 198. Section 42475.2 of the Public Resources Code is*
21 *amended to read:*

22 42475.2. (a) ~~The board and the~~ department may ~~each~~ adopt
23 regulations to implement and enforce this chapter as emergency
24 regulations.

25 (b) The emergency regulations adopted pursuant to this chapter
26 shall be adopted in accordance with Chapter 3.5 (commencing
27 with Section 11340) of Part 1 of Division 3 of Title 2 of the
28 Government Code, and for the purposes of that chapter, including
29 Section 11349.6 of the Government Code, the adoption of these
30 regulations is an emergency and shall be considered by the Office
31 of Administrative Law as necessary for the immediate preservation
32 of the public peace, health, safety, and general welfare.
33 Notwithstanding Chapter 3.5 (commencing with Section 11340)
34 of Part 1 of Division 3 of Title 2 of the Government Code, any
35 emergency regulations adopted by the ~~board or the~~ department
36 pursuant to this section shall be filed with, but not be repealed by,
37 the Office of Administrative Law and shall remain in effect for a
38 period of two years or until revised by the department ~~or the board~~,
39 whichever occurs sooner.

1 *SEC. 199. Section 42475.4 of the Public Resources Code is*
2 *amended to read:*

3 42475.4. (a) The ~~board~~ department shall annually establish,
4 and update as necessary, statewide recycling goals for covered
5 electronic waste. In implementing this section, the ~~board~~
6 department shall do all of the following:

7 (1) Post on its Internet Web site information on the amount of
8 covered electronic devices sold in the state in the previous year as
9 reported to the ~~board~~ department.

10 (2) Post on its Internet Web site information on the amount of
11 covered electronic waste recycled in the state in the previous year
12 as reported to the ~~board~~ department.

13 (3) Develop and adopt recycling goals, with input from
14 manufacturers, retailers, covered electronic waste recyclers, and
15 collectors, that reflect projections of covered electronic device
16 sales, rates of obsolescence, and stockpiles.

17 (b) Nothing in this section authorizes the ~~board~~ department to
18 establish any recycling rates or dates by which a manufacturer of
19 covered electronic devices shall comply with this chapter, or to
20 impose any other recycling goal or target on a manufacturer of
21 those devices.

22 *SEC. 200. Section 42476 of the Public Resources Code is*
23 *amended to read:*

24 42476. (a) The Electronic Waste and Recovery and Recycling
25 Account is hereby established in the Integrated Waste Management
26 Fund. All fees collected pursuant to this chapter shall be deposited
27 in the account. Notwithstanding Section 13340 of the Government
28 Code, the funds in the account are hereby continuously
29 appropriated, without regard to fiscal year, for the following
30 purposes:

31 (1) To pay refunds of the covered electronic waste recycling
32 fee imposed under Section 42464.

33 (2) To make electronic waste recovery payments to an
34 authorized collector of covered electronic waste pursuant to Section
35 42479.

36 (3) To make electronic waste recycling payments to covered
37 electronic waste recyclers pursuant to Section 42479.

38 (4) To make payments to manufacturers pursuant to subdivision
39 (g).

1 (b) (1) The money in the account may be expended for the
2 following purposes only upon appropriation by the Legislature in
3 the annual Budget Act:

4 (A) For the administration of this chapter by the ~~board and the~~
5 department.

6 (B) To reimburse the State Board of Equalization for its
7 administrative costs of registering, collecting, making refunds, and
8 auditing retailers and consumers in connection with the covered
9 electronic waste recycling fee imposed under Section 42464.

10 (C) To provide funding to the department to implement and
11 enforce Chapter 6.5 (commencing with Section 25100) of Division
12 20 of the Health and Safety Code, as that chapter relates to covered
13 electronic devices, and any regulations adopted by the department
14 pursuant to that chapter.

15 (D) To establish the public information program specified in
16 subdivision (d).

17 (2) Any fines or penalties collected pursuant to this chapter shall
18 be deposited in the Electronic Waste Penalty Subaccount, which
19 is hereby established in the account. The funds in the Electronic
20 Waste Penalty Subaccount may be expended by the ~~board or~~
21 department only upon appropriation by the Legislature.

22 (c) Notwithstanding Section 16475 of the Government Code,
23 any interest earned upon funds in the Electronic Waste Recovery
24 and Recycling Account shall be deposited in that account for
25 expenditure pursuant to this chapter.

26 (d) Not more than 1 percent of the funds annually deposited in
27 the Electronic Waste Recovery and Recycling Account shall be
28 expended for the purposes of establishing the public information
29 program to educate the public in the hazards of improper covered
30 electronic device storage and disposal and on the opportunities to
31 recycle covered electronic devices.

32 (e) The ~~board~~ *department* shall adopt regulations specifying
33 cancellation methods for the recovery, processing, or recycling of
34 covered electronic waste.

35 (f) The ~~board~~ *department* may pay an electronic waste recycling
36 payment or electronic waste recovery payment for covered
37 electronic waste only if all of the following conditions are met:

38 (1) The covered electronic waste, including any residuals from
39 the processing of the waste, is handled in compliance with all
40 applicable statutes and regulations.

1 (2) The manufacturer or the authorized collector or recycler of
2 the electronic waste provide a cost free and convenient opportunity
3 to recycle electronic waste, in accordance with the legislative intent
4 specified in subdivision (b) of Section 42461.

5 (3) If the covered electronic waste is processed, the covered
6 electronic waste is processed in this state according to the
7 cancellation method authorized by the ~~board~~ department.

8 (4) The ~~board~~ department declares that the state is a market
9 participant in the business of the recycling of covered electronic
10 waste for all of the following reasons:

11 (A) The fee is collected from the state's consumers for covered
12 electronic devices sold for use in the state.

13 (B) The purpose of the fee and subsequent payments is to
14 prevent damage to the public health and the environment from
15 waste generated in the state.

16 (C) The recycling system funded by the fee ensures that
17 economically viable and sustainable markets are developed and
18 supported for recovered materials and components in order to
19 conserve resources and maximize business and employment
20 opportunities within the state.

21 (g) (1) The ~~board~~ department may make a payment to a
22 manufacturer that takes back a covered electronic device from a
23 consumer in this state for purposes of recycling the device at a
24 processing facility. The amount of the payment made by the ~~board~~
25 department shall equal the value of the covered electronic waste
26 recycling fee paid for that device. To qualify for a payment
27 pursuant to this subdivision, the manufacturer shall demonstrate
28 both of the following to the ~~board~~ department:

29 (A) The covered electronic device for which payment is claimed
30 was used in this state.

31 (B) The covered electronic waste for which a payment is
32 claimed, including any residuals from the processing of the waste,
33 has been, and will be, handled in compliance with all applicable
34 statutes and regulations.

35 (2) A covered electronic device for which a payment is made
36 under this subdivision is not eligible for an electronic waste
37 recovery payment or an electronic waste recycling payment under
38 Section 42479.

39 *SEC. 201. Section 42477 of the Public Resources Code is*
40 *amended to read:*

1 42477. (a) On July 1, 2004, or as specified otherwise in Section
2 25214.10.1 of the Health and Safety Code, and on July 1 every
3 two years thereafter, ~~the board in collaboration with the~~ department
4 shall establish an electronic waste recovery payment schedule for
5 covered electronic wastes generated in this state to cover the net
6 cost for an authorized collector to operate a free and convenient
7 system for collecting, consolidating and transporting covered
8 electronic wastes generated in this state.

9 (b) ~~The board~~ department shall make the electronic waste
10 recovery payments either directly to an authorized collector or to
11 a covered electronic waste recycler for payment to an authorized
12 collector pursuant to this article.

13 *SEC. 202. Section 42478 of the Public Resources Code is*
14 *amended to read:*

15 42478. (a) Except as provided in subdivision (b), on July 1,
16 2004, or as specified otherwise in Section 25214.10.1 of the Health
17 and Safety Code, and on July 1 every two years thereafter, the
18 ~~board, in collaboration with the~~ department, shall establish a
19 covered electronic waste recycling payment schedule for covered
20 electronic wastes generated in this state to cover the average net
21 cost for an electronic waste recycler to receive, process, and recycle
22 each major category, as determined by the ~~board~~ department, of
23 covered electronic waste received from an authorized collector.
24 ~~The board~~ department shall make the electronic waste recycling
25 payments to a covered electronic waste recycler pursuant to this
26 article.

27 (b) Until the ~~board~~ department adopts a new payment schedule
28 that covers the average net cost for an electronic waste recycler to
29 receive, process, and recycle each major category, as determined
30 by the ~~board~~ department of covered electronic waste received from
31 an authorized collector, the amount of the covered electronic waste
32 recycling payment shall be equal to twenty-eight cents (\$0.28) per
33 pound of the total weight of covered electronic waste received
34 from an authorized collector and subsequently processed for
35 recycling.

36 *SEC. 203. Section 42479 of the Public Resources Code is*
37 *amended to read:*

38 42479. (a) (1) For covered electronic waste collected for
39 recycling on and after January 1, 2005, the ~~board~~ department shall
40 make electronic waste recovery payments and electronic waste

1 recycling payments for the collection and recycling of covered
2 electronic waste to an authorized collector or covered electronic
3 waste recycler, respectively, upon receipt of a completed and
4 verified invoice submitted to the ~~board~~ *department* by the
5 authorized collector or recycler in the form and manner determined
6 by the ~~board~~ *department*.

7 (2) To the extent authorized pursuant to Section 42477, a
8 covered electronic waste recycler shall make the electronic waste
9 recovery payments to an authorized collector upon receipt of a
10 completed and verified invoice submitted to the recycler by the
11 authorized collector in the form and manner determined by the
12 ~~board~~ *department*.

13 (b) An e-waste recycler is eligible for a payment pursuant to
14 this section only if the e-waste recycler meets all of the following
15 requirements:

16 (1) The e-waste recycler is in compliance with applicable
17 requirements of Article 6 (commencing with Section 66273.70)
18 of Chapter 23 of Division 4.5 of Title 22 of the California Code
19 of Regulations.

20 (2) The e-waste recycler demonstrates to the ~~board~~ *department*
21 that any facility utilized by the e-waste recycler for the handling,
22 processing, refurbishment, or recycling of covered electronic
23 devices meets all of the following standards:

24 (A) The facility has been inspected by the department within
25 the past 12 months and had been found to be operating in
26 conformance with all applicable laws, regulations, and ordinances.

27 (B) The facility is accessible during normal business hours for
28 unannounced inspections by state or local agencies.

29 (C) The facility has health and safety, employee training, and
30 environmental compliance plans and certifies compliance with the
31 plans.

32 (D) The facility meets or exceed the standards specified in
33 Chapter 1 (commencing with Section 1171) of Part 4 of Division
34 2, Division 4 (commencing with Section 3200), and Division 5
35 (commencing with Section 6300), of the Labor Code or, if all or
36 part of the work is to be performed in another state, the equivalent
37 requirements of that state.

38 *SEC. 204. Section 42485 of the Public Resources Code is*
39 *amended to read:*

1 42485. Except as provided in subdivision (b) of Section 42486,
2 ~~the board and the department~~ shall not implement this chapter if
3 either of the following occur:

4 (a) A federal law, or a combination of federal laws, takes effect
5 and does all of the following:

6 (1) Establishes a program for the collection, recycling, and
7 proper disposal of covered electronic waste that is applicable to
8 all covered electronic devices sold in the United States.

9 (2) Provides revenues to the state to support the collection,
10 recycling, and proper disposal of covered electronic waste, in an
11 amount that is equal to, or greater than, the revenues that would
12 be generated by the fee imposed under Section 42464.

13 (3) Requires covered electronic device manufacturers, retailers,
14 handlers, processors, and recyclers to dispose of those devices in
15 a manner that is in compliance with all applicable federal, state,
16 and local laws, and prohibits the devices from being exported for
17 disposal in a manner that poses a significant risk to the public
18 health or the environment.

19 (b) A trial court issues a judgment, which is not appealed, or an
20 appellate court issues an order affirming a judgment of a trial court,
21 holding that out-of-state manufacturers or retailers, or both, may
22 not be required to collect the fee authorized by this chapter. The
23 out-of-state manufacturers or retailers, or both, shall continue to
24 collect the fee during the appellate process.

25 *SEC. 205. Section 42500 of the Public Resources Code is*
26 *amended to read:*

27 42500. ~~The board~~ *Department of Resources Recycling and*
28 *Recovery, in collaboration with the Department of Toxics and*
29 *Waste Management*, shall provide periodic training to enforcement
30 agencies regarding changes in state or federal regulations, new
31 technologies affecting solid waste landfill operations, and other
32 matters which will enhance the enforcement agencies' ability to
33 carry out their enforcement responsibilities. In providing that
34 training, ~~the board~~ *Department of Resources Recycling and*
35 *Recovery and the Department of Toxics and Waste Management*
36 shall pay particular attention to cities and counties which meet the
37 criteria specified in Section 41782.

38 *SEC. 206. Section 42501 of the Public Resources Code is*
39 *amended to read:*

1 42501. (a) The ~~board~~ *Department of Resources Recycling and*
2 *Recovery, in collaboration with the Department of Toxics and*
3 *Waste Management*, shall provide ongoing technical assistance
4 and guidance to enforcement agencies to assist in their
5 decisionmaking processes. This assistance shall include, but is not
6 limited to, providing all of the following:

- 7 (1) Technical studies and reports.
- 8 (2) Copies of innovative facility operation plans.
- 9 (3) Investigative findings and analyses of new waste
10 management practices and procedures.

11 (b) In providing that assistance, the ~~board~~ *Department of*
12 *Resources Recycling and Recovery* shall pay particular attention
13 to cities and counties which meet the criteria specified in Section
14 41782.

15 *SEC. 207. Section 42510 of the Public Resources Code is*
16 *amended to read:*

17 42510. It is the intent of the Legislature that actions taken by
18 the ~~board~~ *Department of Resources Recycling and Recovery* and
19 cities and counties pursuant to this article serve in the best interests
20 of cities and counties by preserving existing disposal site capacity
21 and providing a source of revenue from the stabilization and
22 expansion of markets for processed wood waste materials. Except
23 as provided in Sections 41783, 41784, and 41785, any actions
24 taken pursuant to this article shall be separate from, and not be
25 counted toward, the diversion requirements established pursuant
26 to paragraphs (1) and (2) of subdivision (a) of Section 41780.

27 *SEC. 208. Section 42511 of the Public Resources Code is*
28 *amended to read:*

29 42511. The ~~board~~ *Department of Resources Recycling and*
30 *Recovery, in consultation with the Department of Toxics and Waste*
31 *Management*, shall assist cities and counties to divert nonyard
32 wood wastes which cannot otherwise feasibly be reduced, recycled,
33 or composted, for processing and utilization as a fuel resource,
34 provided that the facilities which use the nonyard wood waste as
35 a fuel resource have obtained any necessary permits which allow
36 the use of those materials as a fuel and to the extent the diversion
37 is consistent with the hierarchy set forth in Section 40051.

38 *SEC. 209. Section 42520 of the Public Resources Code is*
39 *amended to read:*

1 42520. The ~~board~~ *Department of Resources Recycling and*
2 *Recovery* shall establish a Plastics Recycling Information
3 Clearinghouse. This clearinghouse shall provide information to
4 postconsumer plastics collectors, reprocessors, and recyclers about
5 programs collecting postconsumer plastics, availability of
6 postconsumer plastics, and recent advances in postconsumer
7 plastics recycling technology.

8 *SEC. 210. Section 42540 of the Public Resources Code is*
9 *amended to read:*

10 42540. The ~~board~~ *Department of Resources Recycling and*
11 *Recovery, in consultation with the Department of Toxics and Waste*
12 *Management*, shall provide technical assistance to counties and
13 cities to assist in development, revision, amendment, and
14 implementation of local city source reduction and recycling
15 elements and countywide integrated waste management plans.
16 Assistance rendered, at the discretion of the ~~board~~ *Department of*
17 *Resources Recycling and Recovery*, includes, but is not limited to,
18 all of the following:

19 (a) Developing regulations for the implementation of the city
20 source reduction and recycling elements and the countywide
21 integrated waste management plans.

22 (b) Conducting waste characterization studies on a city, county,
23 district, regional, or statewide basis, or any combination thereof.

24 (c) Developing annual baseline data for measurement of the
25 effectiveness of local plans in achieving statewide goals.

26 (d) Conducting studies on issues or problems that impact the
27 ability of local government, the state, or business and industry in
28 achieving individual or collective goals for integrated waste
29 management.

30 (e) Developing mechanisms to implement market development
31 recommendations recommended by the ~~board~~ *Department of*
32 *Resources Recycling and Recovery*.

33 (f) Providing technical and general information deemed
34 appropriate to assist state and local governments achieve the
35 objectives of integrated waste management elements and plans.

36 *SEC. 211. Section 42551 of the Public Resources Code is*
37 *amended to read:*

38 42551. The ~~board~~ *Department of Resources Recycling and*
39 *Recovery* shall conduct a study of the feasibility of requiring that
40 all telephone directories issued or sold in this state be made of

1 materials that will allow for the maximum volume of directories
2 to be recycled. The ~~board~~ *Department of Resources Recycling and*
3 *Recovery* shall consult with representatives of telephone directory
4 publishers, including the Yellow Pages Publishers Association, as
5 well as representatives of recycling operators. The ~~board~~
6 *Department of Resources Recycling and Recovery* shall make use
7 of public hearings and workshops as a means of providing an
8 opportunity for public comment. The ~~board~~ *Department of*
9 *Resources Recycling and Recovery* may create an advisory board
10 consisting of members representing telephone directory publishers,
11 recycling operators, and other interested parties.

12 *SEC. 212. Section 42555 of the Public Resources Code is*
13 *amended to read:*

14 42555. If the ~~board~~ *Department of Resources Recycling and*
15 *Recovery* determines that the policy goals established by Section
16 42554 are not being met by January 1, 1995, the ~~board~~ *Department*
17 *of Resources Recycling and Recovery* shall make recommendations
18 to the Legislature, on or before January 1, 1996, on strategies for
19 meeting the goals established in Section 42554.

20 *SEC. 213. Section 42556 of the Public Resources Code is*
21 *amended to read:*

22 42556. If the ~~board~~ *Department of Resources Recycling and*
23 *Recovery* determines that the policy goals established by Section
24 42554 are not being met by January 1, 1999, the ~~board~~ *Department*
25 *of Resources Recycling and Recovery* shall make recommendations
26 to the Legislature, on or before January 1, 2000, on strategies for
27 meeting the goals established in Section 42554.

28 *SEC. 214. Section 42557 of the Public Resources Code is*
29 *amended to read:*

30 42557. On and after January 1, 1995, all telephone directories
31 distributed within the state shall be made from materials that will
32 allow for the maximum volume of directories to be recycled, as
33 determined by the ~~board~~ *Department of Resources Recycling and*
34 *Recovery*. If reasonably feasible, it is the goal of this state that
35 existing waste paper recyclers make an effort to accept telephone
36 directories for recycling.

37 *SEC. 215. Section 42558 of the Public Resources Code is*
38 *amended to read:*

39 42558. For the purposes of implementing and enforcing this
40 chapter, the ~~board~~ *Department of Resources Recycling and*

1 *Recovery* shall adopt general guidelines regarding the materials
2 which may be used in the production of telephone directories which
3 can and will be recycled. The guidelines shall be reviewed and
4 promptly updated, as necessary, in order to avoid delay in the
5 introduction of new materials or new recycling processes which
6 will advance efforts to recycle telephone directories.

7 *SEC. 216. Section 42561 of the Public Resources Code is*
8 *amended to read:*

9 42561. On or before January 1, 1991, the ~~board~~ *Department*
10 *of Resources Recycling and Recovery* shall initiate a high grade
11 white office paper recovery assistance program for state and local
12 agencies and private businesses.

13 *SEC. 217. Section 42562 of the Public Resources Code is*
14 *amended to read:*

15 42562. The high grade white office paper recovery assistance
16 program shall include the following elements:

17 (a) Staff training materials designed to provide training to local
18 program coordinators and instruction to personnel of state and
19 local agencies and private businesses who would participate in
20 high grade white office paper recovery programs.

21 (b) Public information materials designed to provide initial
22 program startup support and periodic reinforcement to high grade
23 white office paper recovery programs.

24 (c) Desk top collection containers designed for use by personnel
25 within the office setting.

26 (d) Metal collection bins that meet State Fire Marshal's
27 standards for overnight storage of flammable materials for use in
28 intermediate storage of recovered paper.

29 (e) Staff assistance from the ~~board~~ *Department of Resources*
30 *Recycling and Recovery* to identify markets for collected materials,
31 including model contracts for negotiation with local paper brokers.

32 *SEC. 218. Section 42600 of the Public Resources Code is*
33 *amended to read:*

34 42600. The ~~board~~ *Department of Resources Recycling and*
35 *Recovery* shall establish a statewide public information and
36 education program to encourage participation by the general public,
37 business, government, and industry in all phases of integrated
38 waste management. To the maximum extent possible, the public
39 information and education program developed pursuant to this
40 chapter shall be coordinated so as to not duplicate the efforts of

1 other state agency public information programs for the promotion
2 of source reduction, recycling, and composting. The public
3 information and education program shall encourage participation
4 in the ~~board~~ *Department of Resources Recycling and Recovery*
5 integrated waste management programs and in local and regional
6 programs. The ~~board's~~ *Department of Resources Recycling and*
7 *Recovery's* program shall, at a minimum, include strategies and
8 specific campaign activities to do all of the following:

9 (a) Encourage business and industry to reduce excess packaging
10 of consumer products, to eliminate nonrecyclable contaminants
11 from consumer goods, and to increase product durability. The
12 ~~board~~ *Department of Resources Recycling and Recovery* shall also
13 promote waste handling practices which reduce waste generation
14 by business and industry.

15 (b) Encourage consumers to reduce waste generation through
16 selective purchasing and to encourage recycling at home and work.

17 (c) Encourage local government procurement of products
18 containing recycled materials, integration of recycling into the
19 community waste management infrastructure, and public
20 participation in local waste management decisionmaking.

21 (d) Implement a "Buy Recycled" campaign to encourage
22 business, industrial, and residential consumers to purchase products
23 manufactured with, or packaged in, recycled materials. To promote
24 the "Buy Recycled" program, the ~~board~~ *Department of Resources*
25 *Recycling and Recovery* shall develop a directory of California
26 vendors providing recycled products and shall work to dispel myths
27 regarding the inferiority of recycled products.

28 (e) Provide information to cities, counties, and regional agencies
29 on programs implemented by the ~~board~~ *Department of Resources*
30 *Recycling and Recovery* pursuant to this section and strategies that
31 may be pursued jointly by the ~~board~~ *Department of Resources*
32 *Recycling and Recovery* and cities, counties, and regional agencies
33 to maximize coordination between state and local public
34 information and education programs to reduce costs and improve
35 efficiencies of state and local governments.

36 (f) Develop and disseminate to cities, counties, and regional
37 agencies model public information materials and programs that
38 can be used by those agencies in compliance with Sections 41220
39 and 41420.

1 *SEC. 219. Section 42601 of the Public Resources Code is*
2 *amended to read:*

3 42601. ~~The-board~~ *Department of Resources Recycling and*
4 *Recovery shall measure public information program effectiveness*
5 *through research which establishes program benchmarks and tracks*
6 *results. The results of that measurement shall serve as the basis*
7 *for program modification.*

8 *SEC. 220. Section 42602 of the Public Resources Code is*
9 *amended to read:*

10 42602. ~~The-board~~ *Department of Resources Recycling and*
11 *Recovery shall employ appropriate marketing techniques to*
12 *disseminate its message, including radio and television advertising.*
13 ~~The-board~~ *Department of Resources Recycling and Recovery may*
14 *conduct paid advertising campaigns or solicit joint sponsorship of*
15 *advertising campaigns by private industry for the purposes of*
16 *complying with this chapter.*

17 *SEC. 221. Section 42605 of the Public Resources Code is*
18 *amended to read:*

19 42605. ~~The State Department of Education shall encourage~~
20 *participation in the integrated waste management education*
21 *program established pursuant to this chapter in cooperation with*
22 ~~the-California-Integrated-Waste-Management-Board~~ *Department*
23 ~~of Resources Recycling and Recovery~~ *to satisfy the teaching*
24 *requirements of the science framework adopted by the State Board*
25 *of Education.*

26 *SEC. 222. Section 42621 of the Public Resources Code is*
27 *amended to read:*

28 42621. ~~The-board~~ *Department of Resources Recycling and*
29 *Recovery shall develop and implement a source reduction and*
30 *recycling program for school districts which shall include, but not*
31 *be limited to, all of the following elements:*

32 (a) *A survey of school districts throughout the state to determine*
33 *which districts already have source reduction and recycling*
34 *programs and which districts need those programs.*

35 (b) *Development of a model waste reduction and recycling*
36 *program for school districts.*

37 (c) *Providing training for school districts on how to implement*
38 *source reduction and recycling programs.*

1 (d) Providing ongoing technical and informational assistance
2 for school districts implementing source reduction and recycling
3 programs.

4 (e) Establishment of a repository of literature and teaching
5 materials from other states and institutions which have instituted
6 source reduction and recycling programs for their waste stream.

7 (f) Determining the types of equipment needed by school
8 districts to implement source reduction recycling programs.

9 (g) Providing assistance to school districts in locating markets
10 for their reusable or recyclable materials.

11 (h) Disseminating information to school districts on office
12 equipment and other items which are made from recycled materials
13 and which are available for purchase by school districts.

14 *SEC. 223. Section 42635 of the Public Resources Code is*
15 *amended to read:*

16 42635. For purposes of this chapter, the following definitions
17 shall apply:

18 (a) “Environmentally preferable product” means a product that
19 promotes healthy indoor environments for children, and
20 demonstrates the use of the environmentally preferable materials
21 and systems. When compared to other similar products with similar
22 functions an environmentally preferable product has some, or all,
23 of the following characteristics relative to those similar products
24 serving similar functions:

25 (1) Less hazardous to public health, safety, and the environment.

26 (2) Consumes less energy in their manufacture or use.

27 (3) Contains more, or any amount of, recycled or post-consumer
28 material content in their manufacture.

29 (4) Results in less potential waste.

30 (5) Results in less harm to indoor air quality.

31 (6) Consumes less water.

32 (7) Include features, or is manufactured from materials, that
33 promotes recycling or reuse of the product.

34 (b) “Local agency” means a city that has prepared, adopted, and
35 submitted to the county a source reduction and recycling element
36 pursuant to Section 41000, and a county that has prepared and
37 submitted to the ~~board~~ *Department of Resources Recycling and*
38 *Recovery* an integrated waste management plan pursuant to Section
39 41570.

40 (c) “Office” means a county office of education.

(d) “School” or “schoolsite” means a public elementary or secondary school.

(e) “School district” has the same meaning as defined in Section 80 of the Education Code.

SEC. 224. Section 42640 of the Public Resources Code is amended to read:

42640. (a) On or before July 1, 2002, after researching and determining the best waste reduction practices for school districts and schoolsites, the ~~board~~ *Department of Resources Recycling and Recovery* shall develop models and school waste reduction tools, based upon the program developed pursuant to Section 42621, that may be used by schools, school districts, offices, and local agencies to implement waste reduction programs. The models and tools may include, but not be limited to, all of the following:

(1) Waste prevention, recycling, composting, procurement, and green building elements that, when properly implemented, create hands-on learning experiences for pupils and result in a greater reduction in schoolsite and school district solid waste generation than currently exists.

(2) Model waste reduction programs that may be implemented by the local agencies, schoolsites, and school districts.

(3) Environmental, economic, and educational benefits of implementing waste reduction programs.

(b) The ~~board~~ *Department of Resources Recycling and Recovery* shall make the models and tools available and downloadable to local agencies, schools, and school districts from the ~~board's~~ *Department of Resources Recycling and Recovery's* Internet Web site.

SEC. 225. Section 42641 of the Public Resources Code is amended to read:

42641. The ~~board~~ *Department of Resources Recycling and Recovery* shall provide training and ongoing technical and informational assistance to local agencies, offices, schools, and school districts on implementing waste reduction programs.

SEC. 226. Section 42642 of the Public Resources Code is amended to read:

42642. The Division of the State Architect, in consultation with the ~~board~~ *Department of Resources Recycling and Recovery*, shall develop and maintain on its *Internet* Web site, a list of environmentally preferable products and a list of recycled products

1 that may be used in the construction and modernization of school
2 facilities. The ~~board~~ *Department of Resources Recycling and*
3 *Recovery* shall provide notice to each school district of the
4 existence of these lists and their location on these *Internet Web*
5 sites.

6 *SEC. 227. Section 42645 of the Public Resources Code is*
7 *amended to read:*

8 42645. (a) The ~~board~~ *Department of Resources Recycling and*
9 *Recovery*, in consultation with the State Department of Education,
10 the State Board of Education, and the Secretary for Education,
11 shall establish a program to provide grants to school districts and
12 schools to assist in the development and implementation of
13 educational programs and to promote the use of existing
14 educational programs to teach the concepts of source reduction,
15 recycling, and composting.

16 (b) The ~~board~~ *Department of Resources Recycling and Recovery*,
17 in consultation with the State Department of Education, the State
18 Board of Education, and the Secretary for Education, shall adopt
19 criteria for awarding grants pursuant to this article, including, but
20 not limited to, the grant's structure, the schedule for awarding
21 grants, and grant amount limits. This criteria shall include, but not
22 be limited to, a procedure for the geographic distribution of the
23 grants and the appropriate representation of elementary, middle,
24 and high school as grant recipients. In adopting this criteria, the
25 ~~board~~ *Department of Resources Recycling and Recovery* shall
26 include, in the criteria, the extent to which an office, a school
27 district, or a school has demonstrated a commitment to achieving
28 the following goals:

29 (1) The adoption of waste reduction and recycling programs
30 and practices.

31 (2) The adoption and implementation of the unified education
32 strategy adopted pursuant to Part 4 (commencing with Section
33 71300) of Division 34.

34 (3) The allocation of adequate space for the safe collection,
35 storage, and loading of recyclable materials.

36 (4) To the maximum extent feasible, the use of recycled
37 materials and environmentally preferable products in the
38 construction or modernization of public school facilities.

39 (5) Participation in the environmental ambassador pilot program
40 established pursuant to Section 51226.4 of the Education Code.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the adoption of criteria for the awarding of grants pursuant to this article is not the adoption of a regulation, and is exempt from the requirements of that chapter.

SEC. 228. Section 42646 of the Public Resources Code is amended to read:

42646. On or before January 1, 2004, the ~~board~~ Department of Resources Recycling and Recovery shall evaluate the implementation of school waste reduction and recycling programs in the state's schools and if the ~~board~~ Department of Resources Recycling and Recovery determines less than 75 percent of schools have implemented a waste reduction and recycling program, the ~~board~~ Department of Resources Recycling and Recovery shall recommend to the Legislature those statutory changes needed to require schools to implement such a program.

SEC. 229. Section 42647 of the Public Resources Code is amended to read:

42647. The ~~board~~ Department of Resources Recycling and Recovery may enter into an interagency agreement with the State Department of Education or other state agencies to implement this chapter, Part 4 (commencing with Section 71300) of Division 34, and ~~Sections Section 33541 and 51226.4~~ of the Education Code.

SEC. 230. Section 42648.1 of the Public Resources Code is amended to read:

42648.1. On or before April 1, 2005, the ~~board~~ Department of Resources Recycling and Recovery shall take all of the following actions:

(a) Make available one or more model ordinances that are suitable for modification by a local agency and that may be adopted by a local agency to facilitate solid waste reduction, reuse, and recycling programs, at large venues and large events in accordance with the requirements of this chapter.

(b) While developing the model ordinance, consult with representatives of the League of California Cities, the California State Association of Counties, recyclers, private and public solid waste services and appropriate personnel involved with the operation and management of large venues and large events.

(c) Post information on the ~~board's~~ Department of Resources Recycling and Recovery's Internet Web site on the solid waste

1 reduction, reuse, and recycling programs for implementation by
2 operators of large venues and large events to decrease solid waste
3 and increase diversion of recyclable materials.

4 (d) Post information on the ~~board's~~ *Department of Resources*
5 *Recycling and Recovery's* Internet Web site for local agencies,
6 with examples of solid waste reduction, reuse, and recycling
7 programs, including, but not limited to, those operated by
8 community conservation corps.

9 *SEC. 231. Section 42648.2 of the Public Resources Code is*
10 *amended to read:*

11 42648.2. (a) (1) On and after July 1, 2005, when issuing a
12 permit to an operator of a large venue or large event, the local
13 agency shall provide information to the operator on programs that
14 can be implemented to reduce, reuse, and recycle solid waste
15 materials generated at the venue or event, and provide contact
16 information about where solid waste materials may be donated,
17 recycled, or composted. This information may include, but is not
18 limited to, providing information directing the operator of the large
19 venue or large event to the ~~board's~~ *Department of Resources*
20 *Recycling and Recovery's* Internet Web site or any other
21 appropriate Web site included by the local agency, direct mailings,
22 brochures, or other relevant literature.

23 (2) On or before August 1, 2006, and annually thereafter until
24 August 1, 2008, each local agency shall provide the ~~board~~
25 *Department of Resources Recycling and Recovery* with an estimate
26 and description of the top 10 percent of large venues and large
27 events within its jurisdiction, based upon amount of solid waste
28 generated, as submitted by operators of large venues and large
29 events pursuant to Section 42648.3. To the extent that the
30 information is readily available to the local agency, the information
31 shall include the name, location, and a brief description of the
32 venue or event, a brief description of the types of wastes generated,
33 types, and estimated amount of materials disposed and diverted,
34 by weight, and existing solid waste reduction, reuse, and recycling
35 programs that the operator of the large venue or large event utilizes
36 to reduce, reuse, and recycle the solid waste. This information
37 shall be reported to the ~~board~~ *Department of Resources Recycling*
38 *and Recovery* as a part of the local agency's annual report
39 submitted pursuant to Section 41821.

(b) On or before December 1, 2008, the ~~board~~ Department of Resources Recycling and Recovery shall evaluate the solid waste reduction, reuse, and recycling rates and implementation of waste reduction, reuse, and recycling plans in the top 10 percent of large venues and large events as reported by each local agency pursuant to paragraph (2) of subdivision (a). If the ~~board~~ Department of Resources Recycling and Recovery, upon reviewing the information reported to the ~~board~~ Department of Resources Recycling and Recovery by local agencies pursuant to paragraph (2) of subdivision (a), determines that less than 75 percent of the solid waste reduction, reuse, and recycling plans for the large venues and large events have been prepared or implemented to meet their waste reduction, reuse, and recycling rates developed pursuant to subdivision (a) of Section 42648.4, according to the schedule determined pursuant to subdivision (b) of Section 42468.4, the ~~board~~ Department of Resources Recycling and Recovery shall recommend to the Legislature those statutory changes needed to require operators of large venues and large events to implement waste reduction, reuse, and recycling plans.

SEC. 232. Section 42648.5 of the Public Resources Code is amended to read:

42648.5. The ~~board~~ Department of Resources Recycling and Recovery shall provide technical assistance and tools to implement this chapter, to the extent feasible under existing financial resources. This technical assistance may include, but is not limited to, model documents, training, research on solid waste management best practices, cost reduction, and innovative products to assist local agencies and operators of large venues and large events to develop and implement effective solid waste reduction, reuse, and recycling plans and rates.

SEC. 233. Section 42650 of the Public Resources Code is amended to read:

42650. The ~~board~~ Department of Resources Recycling and Recovery may establish a research and development program, based on priorities that are consistent with Section 40051, and designed to identify, develop, and refine processes and technologies that will assist state and local governments and private industries to implement innovative resource management and waste reduction programs. The ~~board~~ Department Resources Recycling and Recovery may conduct research and development programs, upon

1 appropriation therefor by the Legislature, that include, but are not
2 limited to, all of the following:

3 (a) Establishing, in coordination with the Department of
4 Conservation, a recycling extension service within the ~~board~~
5 *Department of Resources Recycling and Recovery* to serve as a
6 central clearinghouse for recycling research information.

7 (b) Establishing cooperative research and development facilities
8 at universities and colleges in the state.

9 (c) Developing a research program to study the feasibility of
10 using disposal site mining technology to extend the life of existing
11 disposal sites, recover valuable resources, and to reuse the
12 reclaimed disposal site in an environmentally sound manner.

13 (d) Establishing a research program to identify educational and
14 promotional methods that can effect environmentally positive
15 changes in human behavior.

16 (e) Conducting studies into hazards posed by special wastes and
17 by ash and air emissions from the incineration of waste.

18 (f) Conducting research to develop statistical tools to establish
19 computer-based data bases on waste characteristics, special waste
20 volumes, and county and regional waste capacities.

21 (g) Analyzing disposal site encroachment problems and assisting
22 local agencies in the development of effective public policy tools
23 to discourage disposal site encroachment.

24 *SEC. 234. Section 42651 of the Public Resources Code is*
25 *amended to read:*

26 42651. In determining the types of research and development
27 which may be undertaken pursuant to Section 42650, the ~~board~~
28 *Department of Resources Recycling and Recovery* shall prioritize
29 the allocation of funds for processes and technologies based upon
30 the hierarchy established under Section 40051.

31 *SEC. 235. Section 42700 of the Public Resources Code is*
32 *amended to read:*

33 42700. The Director of Transportation, upon consultation with
34 the ~~board~~ *Department of Resources Recycling and Recovery*, shall
35 review and modify all bid specifications relating to the purchase
36 of paving materials, and base, subbase, and pervious backfill
37 materials, using recycled materials. The recycled materials shall
38 include, but are not limited to, recycled asphalt pavement, crushed
39 concrete subbase, foundry slag, asphalt flux produced from the
40 reprocessing or re-refining of used oil, and paving materials

utilizing recycled materials, including, but not limited to, crumb rubber from automobile tires, ash, and glass and glassy aggregates. The specifications shall be based on standards developed by the Department of Transportation for recycled paving materials and for recycled base, subbase, and pervious backfill materials. The standards and specifications shall provide for the use of recycled materials and shall not reduce the quality standards for highway and road construction.

SEC. 236. Section 42703 of the Public Resources Code is amended to read:

42703. (a) Except as provided in subdivision (d), the Department of Transportation shall require the use of crumb rubber in lieu of other materials at the following levels for state highway construction or repair projects that use asphalt as a construction material:

(1) On and after January 1, 2007, the Department of Transportation shall use, on an annual average, not less than 6.62 pounds of CRM per metric ton of the total amount of asphalt paving materials used.

(2) On and after January 1, 2010, the Department of Transportation shall use, on an annual average, not less than 8.27 pounds of CRM per metric ton of the total amount of asphalt paving materials used.

(3) On and after January 1, 2013, the Department of Transportation shall use, on an annual average, not less than 11.58 pounds of CRM per metric ton of the total amount of asphalt paving materials used.

(b) (1) The annual average use of crumb rubber required in subdivision (a) shall be achieved on a statewide basis and shall not require the use of asphalt containing crumb rubber in each individual project or in a place where it is not feasible to use that material.

(2) On and after January 1, 2007, and before January 1, 2015, not less than 50 percent of the asphalt pavement used to comply with the requirements of subdivision (a) shall be rubberized asphalt concrete.

(3) On and after January 1, 2015, the Department of Transportation may use any material meeting the definition of asphalt containing crumb rubber, with respect to product type or specification, to comply with the requirements of subdivision (a).

1 (c) (1) The Secretary of Business, Transportation and Housing
2 shall, on or before January 1, 2009, and on or before January 1
3 annually thereafter, prepare an analysis comparing the cost
4 differential between asphalt containing crumb rubber and
5 conventional asphalt. The analysis shall include the cost of the
6 quantity of asphalt product needed per lane mile paved and, at a
7 minimum, shall include all of the following:

8 (A) The lifespan and duration of the asphalt materials.

9 (B) The maintenance cost of the asphalt materials and other
10 potential cost savings to the department, including, but not limited
11 to, reduced soundwall construction costs resulting from noise
12 reduction qualities of rubberized asphalt concrete.

13 (C) The difference between each type or specification of asphalt
14 containing crumb rubber, considering the cost-effectiveness of
15 each type or specification separately in comparison to the
16 cost-effectiveness of conventional asphalt paving materials.

17 (2) Notwithstanding subdivision (a), if, after completing the
18 analysis required by paragraph (1), the secretary determines that
19 the cost of asphalt containing crumb rubber exceeds the cost of
20 conventional asphalt, the Department of Transportation shall
21 continue to meet the requirement specified in paragraph (1) of
22 subdivision (a), and shall not implement the requirement specified
23 in paragraph (2) of subdivision (a). If the secretary determines,
24 pursuant to an analysis prepared pursuant to paragraph (1), that
25 the cost of asphalt containing crumb rubber does not exceed the
26 cost of conventional asphalt, the Department of Transportation
27 shall implement paragraph (2) of subdivision (a) within one year
28 of that determination, but not before January 1, 2010.

29 (3) Notwithstanding subdivision (a), if the Department of
30 Transportation delays the implementation of paragraph (2) of
31 subdivision (a), the Department of Transportation shall not
32 implement the requirement of paragraph (3) of subdivision (a)
33 until three years after the date the department implements paragraph
34 (2) of subdivision (a).

35 (d) For the purposes of complying with the requirements of
36 subdivision (a), only crumb rubber manufactured in the United
37 States that is derived from waste tires taken from vehicles owned
38 and operated in the United States may be used.

39 (e) The Department of Transportation and the ~~board~~ *Department*
40 *of Resources Recycling and Recovery* shall develop procedures

1 for using crumb rubber and other derived tire products in other
2 projects.

3 (f) The Department of Transportation shall notify and confer
4 with the East Bay Municipal Utility District before using asphalt
5 containing crumb rubber on a state highway construction or repair
6 project that overlays district infrastructure.

7 (g) For purposes of this section the following definitions shall
8 apply:

9 (1) "Asphalt containing crumb rubber" means any asphalt
10 pavement construction, rehabilitation, or maintenance material
11 that contains reclaimed tire rubber and that is specified for use by
12 the Department of Transportation.

13 (2) "Crumb rubber" or "CRM" has the same meaning as defined
14 in Section 42801.7.

15 (3) "Rubberized asphalt concrete" or "RAC" means a paving
16 material that uses an asphalt rubber binder containing an amount
17 of reclaimed tire rubber that is 15 percent or more by weight of
18 the total blend, and that meets other specifications for both the
19 physical properties of asphalt rubber and the application of asphalt
20 rubber, as defined in the American Society for Testing and
21 Materials (ASTM) Standard Specification for Asphalt-Rubber
22 Binder.

23 *SEC. 237. Section 42760 of the Public Resources Code is*
24 *amended to read:*

25 42760. On and after January 1, 1991, every consumer of
26 newsprint in California shall ensure that at least 25 percent of all
27 newsprint used by that consumer of newsprint is made from
28 recycled-content newsprint, if recycled-content newsprint is
29 available at a price comparable to that of newsprint made from
30 virgin material, if the recycled-content newsprint meets the quality
31 standards established by the ~~board~~ *Department of Resources*
32 *Recycling and Recovery* pursuant to Section 42775, and if the
33 recycled-content newsprint is available within a reasonable period
34 of time.

35 *SEC. 238. Section 42770 of the Public Resources Code is*
36 *amended to read:*

37 42770. Each consumer of newsprint within the State of
38 California shall, on or before March 1 of each year, certify to the
39 ~~board~~ *Department of Resources Recycling and Recovery* the
40 number of tons of newsprint used during the preceding calendar

1 year and the number of tons of recycled-content newsprint used
2 during the preceding calendar year.

3 *SEC. 239. Section 42773 of the Public Resources Code is*
4 *amended to read:*

5 42773. If a consumer of newsprint is unable to obtain sufficient
6 amounts of recycled-content newsprint within any reporting period
7 because recycled-content newsprint was not available at a
8 comparable price to that for virgin material, failed to meet the
9 quality standards established pursuant to Section 42775, or was
10 not available within a reasonable period of time, the consumer of
11 newsprint shall so certify to the ~~board~~ *Department of Resources*
12 *Recycling and Recovery* and shall provide the ~~board~~ *Department*
13 *of Resources Recycling and Recovery* with the specific reason for
14 failing to use recycled-content newsprint. In order to make that
15 certification in good faith, the newsprint consumer shall have
16 contacted, for the purpose of obtaining recycled-content newsprint,
17 every producer of recycled-content newsprint that offered to sell
18 recycled-content newsprint to the consumer of newsprint within
19 the last 12 months. The name of each person contacted, the
20 corporate name, if any, and address and telephone number shall
21 accompany each filing with the ~~board~~ *Department of Resources*
22 *Recycling and Recovery*.

23 *SEC. 240. Section 42774 of the Public Resources Code is*
24 *amended to read:*

25 42774. For the purposes of implementing and enforcing this
26 chapter, the ~~board~~ *Department of Resources Recycling and*
27 *Recovery* shall develop and maintain a list which identifies every
28 consumer of newsprint, as defined in Section 42750, and every
29 person who supplies a consumer of newsprint with newsprint, in
30 the state. The ~~board~~ *Department of Resources Recycling and*
31 *Recovery* may use information from local business permits, trade
32 publications, or any other relevant information to develop the list.

33 *SEC. 241. Section 42775 of the Public Resources Code is*
34 *amended to read:*

35 42775. (a) For the purposes of implementing and enforcing
36 this chapter, the ~~board~~ *Department of Resources Recycling and*
37 *Recovery* shall set newsprint comparable quality standards for each
38 of the grades of newsprint specified in Section 42753 to determine
39 the comparable quality of recycled-content newsprint to virgin
40 material. These standards shall be based on the average numerical

standards of printing opacity, brightness level, and cross machine tear strength available from all producers selling recycled-content newsprint in the state in quantities of at least 5,000 metric tons per year. The ~~board~~ *Department of Resources Recycling and Recovery* shall set standards which deviate from this average by not more than 5 percent.

(b) The ~~board~~ *Department of Resources Recycling and Recovery* shall review its standards at least once every two years and determine whether they should be adjusted to reflect changes in industry standards and practices, and, if so, the ~~board~~ *Department of Resources Recycling and Recovery* shall set new standards according to the criteria in subdivision (a).

SEC. 242. Section 42780 of the Public Resources Code is amended to read:

42780. If any person provides a consumer of newsprint with a false or misleading certificate concerning the recycled content of the delivered newsprint pursuant to Section 42772, the ~~board~~ *Department of Resources Recycling and Recovery*, within 30 days of making this determination, shall refer the false or misleading certificate to the Attorney General for prosecution for fraud.

SEC. 243. Section 42781 of the Public Resources Code is amended to read:

42781. If any consumer of newsprint provides the ~~board~~ *Department of Resources Recycling and Recovery* with a false or misleading certificate concerning the percentage of recycled-content newsprint used pursuant to Section 42770, the ~~board~~ *Department of Resources Recycling and Recovery* within 30 days of making this determination, shall refer the false or misleading certificate to the Attorney General for prosecution for fraud.

SEC. 244. Section 42782 of the Public Resources Code is amended to read:

42782. If any consumer of newsprint provides the ~~board~~ *Department of Resources Recycling and Recovery* with a false or misleading certificate concerning why the consumer of newsprint was unable to obtain the minimum amounts of recycled-content newsprint pursuant to Section 42773, the ~~board~~ *Department of Resources Recycling and Recovery*, within 30 days of making this determination, shall refer the false or misleading certificate to the Attorney General for prosecution for fraud.

1 *SEC. 245. Section 42783 of the Public Resources Code is*
2 *amended to read:*

3 42783. Specific information on newsprint prices included as
4 part of a certificate submitted to the ~~board~~ *Department of Resources*
5 *Recycling and Recovery* by newsprint consumers or suppliers of
6 newsprint is propriety information and shall not be made available
7 to the general public.

8 *SEC. 246. Section 42791 of the Public Resources Code is*
9 *amended to read:*

10 42791. In addition to Section 42790, any person who violates
11 Article 3 (commencing with Section 42770) may be assessed a
12 civil penalty by the ~~board~~ *Department of Resources Recycling and*
13 *Recovery* of not more than one thousand dollars (\$1,000) for each
14 violation, pursuant to notice and hearing. Any civil penalties
15 received pursuant to this subdivision shall be deposited in a
16 separate account in the fund and, upon appropriation by the
17 Legislature, shall be used by the ~~board~~ *Department of Resources*
18 *Recycling and Recovery* for the administration of this division.

19 *SEC. 247. Section 42811 of the Public Resources Code is*
20 *amended to read:*

21 42811. The ~~board~~ *Department of Toxics and Waste*
22 *Management* may delegate specific powers and authority in this
23 chapter to enforcement agencies, as defined in Section 40130,
24 including any of the following:

25 (a) Review of operation plans submitted pursuant to regulations
26 adopted under subdivision (a) of Section 42821.

27 (b) Inspection of permitted facilities.

28 (c) Enforcement of waste tire facility permits.

29 *SEC. 248. Section 42812 of the Public Resources Code is*
30 *amended to read:*

31 42812. Division 13 (commencing with Section 21000) of the
32 Public Resources Code does not apply to the issuance of a permit
33 for the operation of an existing waste tire facility pursuant to this
34 chapter, except as to any substantial change in the design or
35 operation of the waste tire facility made between the time this
36 chapter becomes effective and the permit is initially issued by the
37 ~~board~~ *Department of Toxics and Waste Management* and as to any
38 subsequent substantial changes made in the design or operation of
39 the waste tire facility.

1 *SEC. 249. Section 42820 of the Public Resources Code is*
2 *amended to read:*

3 42820. (a) ~~The board~~ *Department of Toxics and Waste*
4 *Management*, in consultation with the Office of Environmental
5 Health Hazard Assessment, shall adopt regulations setting forth
6 the procedures and requirements necessary to obtain a major waste
7 tire facility permit. The regulations adopted pursuant to this
8 subdivision shall not be limited to, but shall include by reference,
9 the regulations adopted by the State Fire Marshal pursuant to
10 subdivision (b).

11 (b) The State Fire Marshal, in consultation with ~~the board~~
12 *Department of Toxics and Waste Management*, shall adopt fire
13 prevention regulations for a major waste tire facility.

14 (c) Regulations adopted pursuant to subdivision (a) shall not
15 require the issuance of a separate permit to a solid waste disposal
16 facility that is permitted pursuant to Chapter 3 (commencing with
17 Section ~~44001~~ *44000.5*) of Part 4.

18 *SEC. 250. Section 42821 of the Public Resources Code is*
19 *amended to read:*

20 42821. The regulations for a major waste tire facility permit
21 shall include, but not be limited to, all of the following:

22 (a) Requirements for submission of a detailed operations plan
23 that contains the following components:

24 (1) Fire prevention measures consistent with applicable
25 regulations adopted by the State Fire Marshal pursuant to
26 subdivision (b) of Section 42820.

27 (2) Fencing and other security measures.

28 (3) Vector control measures.

29 (4) Limits on the size and height of tire piles.

30 (5) A closure plan.

31 (b) Requirements for submission of a detailed plan and
32 implementation schedule for the elimination or substantial
33 reduction of existing tire piles using any of the following methods
34 or techniques:

35 (1) Polymer treatment.

36 (2) Rubber reclaiming and crumb rubber production.

37 (3) Pyrolysis.

38 (4) Production of supplemental fuels for cement kilns, lumber
39 operations, or other industrial processes.

1 (5) Tire shredding and transportation to an authorized solid
2 waste landfill.

3 (6) Energy recovery through incineration of whole or shredded
4 tires in accordance with the terms and conditions of a permit issued
5 by an air pollution control district or air quality management
6 district.

7 (7) Other applications determined to be appropriate by the ~~board~~
8 *Department of Toxics and Waste Management*.

9 (c) Requirements for the submission of evidence of financial
10 assurances secured by the operator of the facility that are adequate
11 to cover damage claims arising out of the operation of the facility
12 and that are adequate to cover the cost of closure if that becomes
13 necessary. The financial assurance shall be a trust fund, surety
14 bond, letter of credit, insurance, or other equivalent financial
15 arrangement acceptable to the ~~board~~ *Department of Toxics and*
16 *Waste Management*.

17 *SEC. 251. Section 42822 of the Public Resources Code is*
18 *amended to read:*

19 42822. The ~~board~~ *Department of Toxics and Waste*
20 *Management* shall issue major waste tire facility permits pursuant
21 to the regulations upon application therefor.

22 *SEC. 252. Section 42823 of the Public Resources Code is*
23 *amended to read:*

24 42823. Except as provided in Section 42823.5, no person shall
25 establish a new major waste tire facility or expand an existing
26 minor waste tire facility unless the person has obtained a major
27 waste tire facility permit issued by the ~~board~~ *Department of Toxics*
28 *and Waste Management* pursuant to Section 42822.

29 *SEC. 253. Section 42823.5 of the Public Resources Code is*
30 *amended to read:*

31 42823.5. (a) A cement manufacturing plant shall be exempt
32 from the requirement to obtain a permit pursuant to Section 42823
33 if the operator of the cement manufacturing plant meets both of
34 the following requirements:

35 (1) The owner or operator of the cement manufacturing plant
36 stores not more than a one-month supply of waste tires at the site
37 of the cement manufacturing plant at any time. A one-month supply
38 of waste tires shall be based on either of the following:

39 (A) The average monthly consumption of waste tires by the
40 plant during the previous year.

1 (B) The waste tire percentage of the total fuel supply allowed
2 by the air pollution control district or air quality management
3 district, multiplied by the average monthly consumption of fuel
4 for the previous year.

5 (2) The operator or owner of the cement manufacturing plant
6 is in compliance with any regulations adopted by the ~~board~~
7 *Department of Toxics and Waste Management* pertaining to waste
8 tire storage and disposal.

9 (b) To apply for the exemption provided by this section, the
10 operator or owner of a cement manufacturing plant shall provide
11 all of the following information to the ~~board~~ *Department of Toxics*
12 *and Waste Management* in writing:

13 (1) The name, address, and physical location of the plant.

14 (2) The name, address, and telephone number of the plant
15 operator and owner.

16 (3) Information describing compliance with subdivision (a).

17 (4) Signatures of the operator and owner of the plant certifying
18 to the accuracy of the information provided.

19 (c) If there is any change to the information provided pursuant
20 to subdivision (b), the operator or owner of the cement
21 manufacturing plant shall report the change to the ~~board~~
22 *Department of Toxics and Waste Management*, in writing, within
23 30 days from the date of the change.

24 (d) Within 60 days from the date of the receipt of the information
25 required by subdivision (b), the ~~board~~ *Department of Toxics and*
26 *Waste Management* shall determine whether the operator or owner
27 of a cement manufacturing plant qualifies for the exemption
28 provided by this section and shall notify the operator or owner of
29 the plant of its determination in writing.

30 (e) The ~~board~~ *Department of Toxics and Waste Management*
31 or the local enforcement agency may inspect a cement
32 manufacturing plant that receives the exemption provided by this
33 section to determine compliance with this section.

34 (f) Any operator or owner of a cement manufacturing plant who
35 receives an exemption pursuant to this section shall allow the ~~board~~
36 *Department of Toxics and Waste Management*, upon presentation
37 of the proper credentials, to enter the cement manufacturing plant
38 during normal working hours to examine and copy books, papers,
39 records, or memoranda pertaining to the use and storage of waste

1 tires, and to conduct inspections and investigations pertaining to
2 waste tire use and storage.

3 *SEC. 254. Section 42825 of the Public Resources Code is*
4 *amended to read:*

5 42825. (a) Any person who accepts waste tires at a major waste
6 tire facility that has not been issued a permit or an authorization
7 to operate from the ~~board~~ *Department of Toxics and Waste*
8 *Management*, or who knowingly directs, transports, or abandons
9 waste tires to or at a major waste tire facility that has not been
10 issued a permit or an authorization to operate from the ~~board~~
11 *Department of Toxics and Waste Management* shall, upon
12 conviction, be punished by a fine of not less than one thousand
13 dollars (\$1,000) or more than ten thousand dollars (\$10,000) for
14 each day of violation, by imprisonment in the county jail for not
15 more than one year, or by both that fine and imprisonment.

16 (b) For purposes of subdivision (a), “each day of violation”
17 means each day on which a violation continues. In any case where
18 a person has accepted waste tires at a major waste tire facility, or
19 knowingly directed or transported waste tires to a major waste tire
20 facility, that has not been issued a permit, in violation of
21 subdivision (a), each day that the waste tires remain at the facility
22 and the person has knowledge thereof is a separate additional
23 violation, unless the person has filed a report with the ~~board~~
24 *Department of Toxics and Waste Management* disclosing the
25 violation and is in compliance with any order regarding the waste
26 tires issued by the ~~board~~ *Department of Toxics and Waste*
27 *Management*, a hearing officer, or a court of competent jurisdiction.

28 *SEC. 255. Section 42830 of the Public Resources Code is*
29 *amended to read:*

30 42830. (a) On or before December 1, 1991, the ~~board~~
31 *Department of Toxics and Waste Management*, in consultation
32 with the State Fire Marshal and the State Department of Health
33 Services, shall adopt emergency regulations setting forth the
34 procedures and requirements necessary to obtain a minor waste
35 tire facility permit.

36 (b) Regulations adopted pursuant to subdivision (a) shall not
37 require the issuance of a separate permit to a solid waste disposal
38 facility which is permitted pursuant to Chapter 3 (commencing
39 with Section ~~44001~~) *44000.5*) of Part 4.

1 *SEC. 256. Section 42831 of the Public Resources Code is*
2 *amended to read:*

3 42831. The ~~board~~ *Department of Toxics and Waste*
4 *Management* may exempt either of the following from the permit
5 requirements of this article:

6 (a) An owner or operator of a tire retreading business for the
7 business site if not more than 3,000 waste tires are kept on the
8 business premises.

9 (b) A person using waste tires for agricultural purposes if the
10 waste tires are kept on the site of use.

11 *SEC. 257. Section 42832 of the Public Resources Code is*
12 *amended to read:*

13 42832. The regulations for minor waste tire facility permits
14 shall include, but not be limited to, all of the following:

15 (a) Fire prevention measures.

16 (b) Vector control measures.

17 (c) Other measures determined by the ~~board~~ *Department of*
18 *Toxics and Waste Management* to be necessary to protect the public
19 health and safety.

20 *SEC. 258. Section 42833 of the Public Resources Code is*
21 *amended to read:*

22 42833. The ~~board~~ *Department of Toxics and Waste*
23 *Management* shall issue minor waste tire facility permits pursuant
24 to the regulations upon application therefor.

25 *SEC. 259. Section 42835 of the Public Resources Code is*
26 *amended to read:*

27 42835. (a) Any person who accepts waste tires at a minor
28 waste tire facility that has not been issued a permit or an
29 authorization to operate from the ~~board~~ *Department of Toxics and*
30 *Waste Management*, or who knowingly directs, transports, or
31 abandons waste tires to or at a minor waste tire facility that has
32 not been issued a permit or an authorization to operate from the
33 ~~board~~ *Department of Toxics and Waste Management* shall, upon
34 conviction, be punished by a fine of not less than five hundred
35 dollars (\$500) or more than five thousand dollars (\$5,000) for each
36 day of violation, by imprisonment in the county jail for not more
37 than one year, or by both that fine and imprisonment.

38 (b) For purposes of subdivision (a), “each day of violation”
39 means each day on which a violation continues. In any case where
40 a person has accepted waste tires at a minor waste tire facility, or

1 knowingly directed or transported waste tires to a minor waste tire
2 facility, that has not been issued a permit, in violation of
3 subdivision (a), each day that the waste tires remain at the facility
4 and the person has knowledge thereof is a separate additional
5 violation, unless the person has filed a report with the ~~board~~
6 *Department of Toxics and Waste Management* disclosing the
7 violation and is in compliance with any order regarding the waste
8 tires issued by the ~~board~~ *Department of Toxics and Waste*
9 *Management*, a hearing officer, or a court of competent jurisdiction.

10 *SEC. 260. Section 42841 of the Public Resources Code is*
11 *amended to read:*

12 42841. The ~~board~~ *Department of Toxics and Waste*
13 *Management* may refuse to issue or renew a waste tire facility
14 permit on any grounds for which it may suspend or revoke a permit.

15 *SEC. 261. Section 42843 of the Public Resources Code is*
16 *amended to read:*

17 42843. (a) The ~~board~~ *Department of Toxics and Waste*
18 *Management*, after holding a hearing in accordance with the
19 procedures set forth in Sections 11503 to 11519, inclusive, of the
20 Government Code, may revoke, suspend, or deny a waste tire
21 facility permit for a period of up to three years, if the ~~board~~
22 *Department of Toxics and Waste Management* determines any of
23 the following:

24 (1) The permit was obtained by a material misrepresentation or
25 failure to disclose relevant factual information.

26 (2) The operator of the waste tire facility, during the previous
27 three years, has been issued a final order for, failed to comply with,
28 or has been convicted of, any of the following:

29 (A) One or more violations of this chapter or the regulations
30 adopted pursuant to this chapter.

31 (B) One or more violations of Chapter 19 (commencing with
32 Section 42950) or the regulations adopted pursuant to that chapter.

33 (C) The terms or conditions of the operator's waste tire facility
34 permit.

35 (D) Any order, direction, or penalty issued by the ~~board~~
36 *Department of Toxics and Waste Management* relating to the safe
37 storage or processing of waste tires.

38 (b) If the ~~board~~ *Department of Toxics and Waste Management*
39 determines that a violation specified in paragraph (2) of subdivision

40 (a) demonstrates a chronic, recurring pattern of noncompliance

1 that poses, or may pose, a significant risk to public health and
2 safety or the environment, or if the violation has not been corrected
3 or reasonable progress toward correction has not been achieved,
4 the ~~board~~ *Department of Toxics and Waste Management* may
5 suspend, revoke, or deny a waste tire facility permit, in accordance
6 with the procedure specified in subdivision (a), for a period of not
7 more than five years.

8 (c) If the ~~board~~ *Department of Toxics and Waste Management*
9 determines that a violation specified in paragraph (2) of subdivision
10 (a) has resulted in significant harm to human health or the
11 environment, the ~~board~~ *Department of Toxics and Waste*
12 *Management* may suspend, revoke, or deny a waste tire facility
13 permit, in accordance with the procedure specified in subdivision
14 (a), for a period of five years or greater.

15 *SEC. 262. Section 42844 of the Public Resources Code is*
16 *amended to read:*

17 42844. (a) The ~~board~~ *Department of Toxics and Waste*
18 *Management* may temporarily suspend any permit issued pursuant
19 to this chapter prior to any hearing if the ~~board~~ *Department of*
20 *Toxics and Waste Management* determines that the action is
21 necessary to prevent or mitigate an imminent or substantial
22 endangerment to the public health or safety or the environment.

23 (b) The ~~board~~ *Department of Toxics and Waste Management*
24 shall notify the holder of the permit of the temporary suspension
25 and the effective date thereof and, at the same time, shall serve the
26 person with an accusation.

27 (c) Upon receipt by the ~~board~~ *Department of Toxics and Waste*
28 *Management* of a notice of defense to the accusation from the
29 holder of the permit, the ~~board~~ *Department of Toxics and Waste*
30 *Management* shall, within 15 days, set the matter for a hearing,
31 which shall be held as soon as possible, but not later than 30 days
32 after receipt of the notice.

33 (d) The temporary suspension shall remain in effect until the
34 hearing is completed and the ~~board~~ *Department of Toxics and*
35 *Waste Management* has made a final determination on the merits,
36 which shall be made within 60 days after the completion of the
37 hearing. If the determination is not transmitted within this period,
38 the temporary suspension shall be of no further effect.

39 *SEC. 263. Section 42845 of the Public Resources Code is*
40 *amended to read:*

42845. (a) Any person who stores, stockpiles, or accumulates waste tires at a location for which a waste tire facility permit is required pursuant to this chapter, or in violation of the terms and conditions of the permit, the provisions of this chapter, or the regulations adopted under this chapter, shall, upon order of the ~~board~~ *Department of Toxics and Waste Management*, clean up those waste tires or abate the effects thereof, or, in the case of threatened pollution or nuisance, take other necessary remedial action.

(b) (1) Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the ~~board~~ *Department of Toxics and Waste Management*, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with that order. In any suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.

(2) If the Attorney General declines, or is unable, to petition the appropriate superior court for issuance of an injunction within 45 days from the ~~board's~~ *Department of Toxics and Waste Management's* request, pursuant to paragraph (1), the district attorney or county counsel of that county may, at the ~~board's~~ *Department of Toxics and Waste Management's* request, petition the superior court for issuance of the injunction specified in paragraph (1).

SEC. 264. Section 42846 of the Public Resources Code is amended to read:

42846. (a) The ~~board~~ *Department of Toxics and Waste Management* may expend available moneys to perform any cleanup, abatement, or remedial work required under the circumstances set forth in Section 42845 which in its judgment is required by the magnitude of endeavor or the need for prompt action to prevent substantial pollution, nuisance, or injury to the public health or safety. The action may be taken in default of, or in addition to, remedial work by the violator or other persons, and regardless of whether injunctive relief is being sought.

(b) The ~~board~~ *Department of Toxics and Waste Management* may perform the work itself, or by or in cooperation with any other governmental agency, and may use rented tools or equipment, either with operators furnished or unoperated. Notwithstanding

1 any other provisions of law, the ~~board~~ *Department of Toxics and*
2 *Waste Management* may enter into oral contracts for that work,
3 and the contracts, whether written or oral, may include provisions
4 for equipment rental and in addition the furnishing of labor and
5 materials necessary to accomplish the work. The contracts are
6 exempt from approval by the Department of General Services
7 pursuant to Section 10295 of the Public Contract Code.

8 *SEC. 265. Section 42846.5 of the Public Resources Code is*
9 *amended to read:*

10 42846.5. If the owner of property upon which waste tires are
11 unlawfully stored, stockpiled, or accumulated refuses to allow the
12 ~~board~~ *Department of Toxics and Waste Management* or its
13 contractors access to enter onto the property and perform all
14 necessary cleanup, abatement, or remedial work as authorized
15 under Section 42846, the ~~board~~ *Department of Toxics and Waste*
16 *Management* or its contractors shall be permitted reasonable access
17 to the property to perform that activity if an order setting civil
18 liability has been issued or obtained pursuant to Article 6
19 (commencing with Section 42850) by the ~~board~~ *Department of*
20 *Toxics and Waste Management*, or by its designee pursuant to
21 subdivision (c) of Section 42850, against the property owner, and
22 the ~~board~~ *Department of Toxics and Waste Management* finds that
23 there is a significant threat to public health or the environment.

24 *SEC. 266. Section 42847 of the Public Resources Code is*
25 *amended to read:*

26 42847. If waste tires are cleaned up, the effects of the tires are
27 abated, or, in the case of threatened pollution or nuisance, other
28 necessary remedial action is taken by any governmental agency,
29 the person or persons who unlawfully stored, stockpiled, or
30 accumulated the waste tires or who unlawfully permitted the
31 storage, stockpile, or accumulation of waste tires or who threatened
32 to cause or permit the unlawful storage, stockpile, or accumulation
33 of waste tires shall be liable to that governmental agency to the
34 extent of the reasonable costs actually incurred in cleaning up the
35 waste, abating the effects thereof, or taking other remedial actions.
36 The amount of those costs shall be recoverable in a civil action
37 by, and paid to, the governmental agency and the ~~board~~ *Department*
38 *of Toxics and Waste Management* to the extent of the latter's
39 contribution to the cleanup costs from available funds. The ~~board~~

1 *Department of Toxics and Waste Management* shall seek recovery
2 of its costs if that recovery is feasible.

3 *SEC. 267. Section 42847.5 of the Public Resources Code is*
4 *amended to read:*

5 42847.5. (a) Any costs or damages incurred by the ~~board~~
6 *Department of Toxics and Waste Management* under this article
7 constitute a lien upon the real property owned by any responsible
8 party that is subject to the remedial action. The lien shall attach
9 regardless of whether the responsible party is insolvent. A lien
10 imposed under this section shall arise at the time costs are first
11 incurred by the ~~board~~ *Department of Toxics and Waste*
12 *Management* with respect to a remedial action at the site.

13 (b) A lien established under this section shall be subject to the
14 notice and hearing procedures required by due process of the law.
15 Prior to imposing the lien, the ~~board~~ *Department of Toxics and*
16 *Waste Management* shall send the property owner via certified
17 mail a "Notice of Intent to Place A Lien" letter. This letter shall
18 provide that the owner, within 14 calendar days from the date of
19 receipt of the letter, may object to the imposition of the lien either
20 in writing or through an informal proceeding before a neutral
21 official. This neutral official shall be the ~~board's~~ *Department of*
22 *Toxics and Waste Management's* executive director or his or her
23 designee, who may not have had any prior involvement with the
24 site. The issue before the neutral official shall be whether the ~~board~~
25 *Department of Toxics and Waste Management* has a reasonable
26 basis for its determination that the statutory elements for lien
27 placement under this section are satisfied. During this proceeding
28 the property owner may present information or submit documents,
29 or both, to establish that the ~~board~~ *Department of Toxics and Waste*
30 *Management* should not place a lien as proposed. The neutral
31 official shall assure that a record of the proceeding is made, and
32 shall issue a written decision. The decision shall state whether the
33 property owner has established any issue of fact or law to alter the
34 ~~board's~~ *Department of Toxics and Waste Management's* intention
35 to file a lien, and the basis for the decision.

36 (c) The ~~board~~ *Department of Toxics and Waste Management*
37 may not be considered a responsible party for a remediated site
38 merely because a lien is imposed under this section.

39 (d) A lien imposed under this section shall continue until the
40 liability for the costs or damages incurred under this article, or a

1 judgment against the responsible party, is satisfied. However, if it
2 is determined by a court that the judgment against the responsible
3 party will not be satisfied, the ~~board~~ *Department of Toxics and*
4 *Waste Management* may exercise its rights under the lien.

5 (e) A lien imposed under this section shall have the force and
6 effect of, and the priority of, a judgment lien upon its recordation
7 in the county in which the property subject to the lien is located.
8 The lien shall contain a legal description of the real property that
9 is subject to, or affected by, the remedial action, the assessor's
10 parcel number, and the name of the owner of record, as shown on
11 the latest equalized assessment roll.

12 (f) All funds recovered under this section on behalf of the
13 ~~board's~~ *Department of Toxics and Waste Management's* waste tire
14 stabilization and abatement program shall be deposited in the
15 California Tire Recycling Management Fund established under
16 Section 42885.

17 *SEC. 268. Section 42848 of the Public Resources Code is*
18 *amended to read:*

19 42848. If, despite reasonable efforts by the ~~board~~ *Department*
20 *of Toxics and Waste Management* to identify the person responsible
21 for the unlawful storage, stockpiling, or accumulation of waste
22 tires or the condition of pollution or nuisance, the person is not
23 identified at the time cleanup, abatement, or remedial work must
24 be performed, the ~~board~~ *Department of Toxics and Waste*
25 *Management* shall not be required to issue an order under this
26 section.

27 *SEC. 269. Section 42849 of the Public Resources Code is*
28 *amended to read:*

29 42849. (a) "Threaten" or "threat," for purposes of this article,
30 means a condition creating a substantial probability of harm, when
31 the probability and potential extent of harm make it reasonably
32 necessary to take immediate action to prevent, reduce, or mitigate
33 damages to persons, property, natural resources, or the public
34 health or safety.

35 (b) If the ~~board~~ *Department of Toxics and Waste Management*
36 finds either an imminent threat to public health, safety, or the
37 environment, or a threat, as defined by subdivision (a), the ~~board~~
38 *Department of Toxics and Waste Management* may conduct an
39 emergency meeting to determine the legal, enforcement, cleanup,
40 or other necessary actions that may be taken to correct that

1 imminent threat or threat. Such a finding by the ~~board~~ *Department*
2 *of Toxics and Waste Management* shall be deemed to be an
3 “emergency situation” for purposes of, and in addition to the
4 situations described in, Section 11125.5 of the Government Code.

5 *SEC. 270. Section 42850 of the Public Resources Code is*
6 *amended to read:*

7 42850. (a) Any person who negligently violates any provision
8 of this chapter, or any permit, rule, regulation, standard, or
9 requirement issued or adopted pursuant to this chapter, is liable
10 for a civil penalty of not less than five hundred dollars (\$500) or
11 more than five thousand dollars (\$5,000), for each violation of a
12 separate provision or, for continuing violations, for each day that
13 the violation continues.

14 (b) Liability under this section may be imposed in a civil action
15 or liability may be imposed administratively pursuant to this article.

16 (c) Upon request of a city, county, or city and county, that city,
17 county, or city and county may be designated, in writing, by the
18 ~~board~~ *Department of Toxics and Waste Management*, to exercise
19 the enforcement authority granted to the ~~board~~ *Department of*
20 *Toxics and Waste Management* under this chapter. Any city,
21 county, or city and county so designated shall follow the same
22 procedures set forth for the ~~board~~ *Department of Toxics and Waste*
23 *Management* under this article. This designation shall not limit the
24 authority of the ~~board~~ *Department of Toxics and Waste*
25 *Management* to take action it deems necessary or proper to ensure
26 to enforcement of this chapter.

27 *SEC. 271. Section 42851 of the Public Resources Code is*
28 *amended to read:*

29 42851. (a) The ~~board~~ *Department of Toxics and Waste*
30 *Management* may issue a complaint to any person on whom civil
31 liability may be imposed pursuant to this article. The complaint
32 shall allege the acts or failures to act that constitute a basis for
33 liability and the amount of the proposed civil liability. The
34 complaint shall be served by personal service or certified mail and
35 shall inform the party so served that a hearing shall be conducted
36 within 60 days after the party has been served, unless the party
37 waives the right to a hearing.

38 (b) If the party waives the right to a hearing, the ~~board~~
39 *Department of Toxics and Waste Management* shall issue an order
40 setting liability in the amount proposed in the complaint unless

1 the ~~board~~ Department of Toxics and Waste Management and the
2 party have entered into a settlement agreement, in which case the
3 ~~board~~ Department of Toxics and Waste Management shall issue
4 an order setting liability in the amount specified in the settlement
5 agreement. If the party has waived the right to a hearing or if the
6 ~~board~~ Department of Toxics and Waste Management and the party
7 have entered into a settlement agreement, the order shall not be
8 subject to review by any court or agency.

9 SEC. 272. Section 42855 of the Public Resources Code is
10 amended to read:

11 42855. All penalties collected under Section 42850 shall be
12 deposited in the California Tire Recycling Management Fund
13 created pursuant to Section 42885 if the attorney who brought the
14 action represented the ~~board~~ Department of Toxics and Waste
15 Management, or shall be retained by a city, county, or city and
16 county designated pursuant to subdivision (c) of Section 42850,
17 if the attorney who brought the action represents the city, county,
18 or city and county. The moneys retained by the city, county, or
19 city and county shall be expended on enforcement and cleanup
20 required under this chapter, including, but not limited to, the
21 prosecution of enforcement actions.

22 SEC. 273. Section 42867 of the Public Resources Code is
23 amended to read:

24 42867. Except as otherwise determined by the ~~board~~
25 Department of Toxics and Waste Management, only landfills
26 authorized in this article shall be eligible for financial assistance
27 in the shredding of tires pursuant to Article 3 (commencing with
28 Section 42870).

29 SEC. 274. Section 42871 of the Public Resources Code is
30 amended to read:

31 42871. The ~~board~~ Department of Resources Recycling and
32 Recovery shall administer a tire recycling program that promotes
33 and develops alternatives to the landfill disposal of used whole
34 tires.

35 SEC. 275. Section 42872.5 of the Public Resources Code is
36 amended to read:

37 42872.5. (a) (1) In addition to the purposes listed in Section
38 42872, the tire recycling program may include the awarding of
39 grants to cities, counties, and other local government agencies for
40 the funding of public works projects that use rubberized asphalt

1 concrete. In addition to the factors listed in Sections 42874 and
2 42875, the ~~board~~ *Department of Resources Recycling and Recovery*
3 may award a grant for a public works project that uses rubberized
4 asphalt concrete if the project will use at least 1,250 tons of
5 rubberized asphalt concrete during the life of the project and will
6 use 20 pounds or more of crumb rubber per ton of rubberized
7 asphalt concrete.

8 (2) The ~~board~~ *Department of Resources Recycling and Recovery*
9 shall annually determine the amount of a grant to be awarded
10 pursuant to this section, based on the per ton amount of rubberized
11 asphalt concrete to be used in the project.

12 (3) The ~~board~~ *Department of Resources Recycling and Recovery*
13 shall not award a grant pursuant to this section that exceeds a
14 maximum amount of two hundred fifty thousand dollars
15 (\$250,000).

16 (b) The grants authorized under this section shall be funded by
17 an appropriation in the annual Budget Act from the California Tire
18 Recycling Management Fund established pursuant to Section
19 42885. To the extent possible, depending on the number of
20 qualified applications, and whether there is a sufficient supply of
21 crumb rubber materials, any funds appropriated pursuant to this
22 section shall not be less than 16 percent of the funds appropriated
23 pursuant to this chapter for market development and new
24 technology activities for used tires and waste tires.

25 (c) In order to provide outreach to local agencies regarding the
26 use of rubberized asphalt concrete in public works projects, all of
27 the following shall occur:

28 (1) The ~~board~~ *Department of Resources Recycling and Recovery*
29 shall create, annually update, and post on its Internet Web site a
30 database of public works projects that include rubberized asphalt
31 concrete that were completed by local agencies under the program
32 established by this section.

33 (2) The Department of Transportation shall post on its public
34 Internet Web site data and descriptions regarding state public works
35 projects using rubberized asphalt concrete.

36 (3) The ~~board~~ *Department of Resources Recycling and Recovery*
37 shall post on its public Internet Web site a link to the data and
38 descriptions provided under paragraph (2).

1 (4) The ~~board~~ *Department of Resources Recycling and Recovery*
2 shall provide technical support to local agencies on the design and
3 application for rubberized asphalt concrete.

4 (d) This section shall become inoperative on June 30, 2010,
5 and, as of January 1, 2011, is repealed, unless a later enacted
6 statute, that becomes operative on or before January 1, 2011,
7 deletes or extends the dates on which it becomes inoperative and
8 is repealed.

9 *SEC. 276. Section 42873 of the Public Resources Code is*
10 *amended to read:*

11 42873. (a) Activities eligible for funding under this article,
12 that reduce, or that are designed to reduce or promote the reduction
13 of, landfill disposal of used whole tires, may include the following:

14 (1) Polymer treatment.

15 (2) Rubber reclaiming and crumb rubber production.

16 (3) Retreading.

17 (4) Shredding.

18 (5) The manufacture of products made from used tires,
19 including, but not limited to, all of the following:

20 (A) Rubberized asphalt, asphalt rubber, modified binders, and
21 chip seals.

22 (B) Playground equipment.

23 (C) Crash barriers.

24 (D) Erosion control materials.

25 (E) Nonslip floor and track surfacing.

26 (F) Oilspill recovery equipment.

27 (G) Roofing adhesives.

28 (H) Tire-derived aggregate applications, including lightweight
29 fill and vibration mitigation.

30 (6) Other environmentally safe applications or treatments
31 determined to be appropriate by the ~~board~~ *Department of Resources*
32 *Recycling and Recovery*.

33 (b) (1) The ~~board~~ *Department of Resources Recycling and*
34 *Recovery* may not expend funds for an activity that provides
35 support or research for the incineration of tires. For the purposes
36 of this article, incineration of tires, includes, but is not limited to,
37 fuel feed system development, fuel sizing analysis, and capacity
38 and production optimization.

39 (2) Paragraph (1) does not affect the permitting or regulation
40 of facilities that engage in the incineration of tires.

1 *SEC. 277. Section 42874 of the Public Resources Code is*
2 *amended to read:*

3 42874. The ~~board~~ *Department of Resources Recycling and*
4 *Recovery* shall evaluate applications for loans or grants under this
5 article based upon, but not limited to, the following factors in the
6 proposal:

7 (a) The quantity of used tires that will be diverted from landfills.

8 (b) The estimated cost per tire in the recycling, processing, or
9 conversion process.

10 (c) The availability of markets for the recycled tire product.

11 (d) The degree to which the processing program mitigates or
12 avoids adverse environmental effects.

13 *SEC. 278. Section 42875 of the Public Resources Code is*
14 *amended to read:*

15 42875. The ~~board~~ *Department of Resources Recycling and*
16 *Recovery* may also consider the following factors in awarding
17 grant or loan applications:

18 (a) The ability of the proposed processing program to integrate
19 with existing or proposed solid waste management activities.

20 (b) Financial support for implementation and operation of the
21 proposed processing program from sources other than loans and
22 grants from the ~~board~~ *Department of Resources Recycling and*
23 *Recovery*.

24 (c) The degree to which the technical approach of the proposal
25 makes the loan and grant program financially self-sufficient.

26 (d) The degree to which the program can be measured or
27 evaluated for success.

28 (e) The probability that the processing program can be
29 implemented and operated with the funds applied for and the
30 amount of funds sought.

31 (f) The time that the land or property on which the proposed
32 processing facility is available to the applicant. No proposal shall
33 be considered for a loan or grant unless the property or facility is
34 available for at least five years.

35 (g) The business plan for operation of the facility.

36 *SEC. 279. Section 42880 of the Public Resources Code is*
37 *amended to read:*

38 42880. The ~~board~~ *Department of Toxics and Waste*
39 *Management and the Department of Resources Recycling and*
40 *Recovery* shall administer this chapter. For organizational purposes,

1 ~~the-board~~ *Department of Toxics and Waste Management and the*
2 *Department of Resources Recycling and Recovery* may create a
3 new division, bureau, office, or unit to administer this chapter.

4 SEC. 280. *Section 42881 of the Public Resources Code is*
5 *amended to read:*

6 42881. (a) In addition to any regulations which ~~the-board is~~
7 *Department of Toxics and Waste Management and the Department*
8 *of Resources Recycling and Recovery* are required by statute to
9 adopt, ~~the-board~~ *Department of Toxics and Waste Management*
10 *and the Department of Resources Recycling and Recovery* may
11 adopt any rules or regulations which ~~the-board determines they~~
12 *determine* may be necessary or useful to carry out this chapter or
13 any of the ~~board's~~ duties or responsibilities imposed pursuant to
14 this chapter.

15 (b) ~~The-board~~ *Department of Toxics and Waste Management*
16 *and the Department of Resources Recycling and Recovery* may
17 prepare, publish, or issue printed materials which ~~the-board~~
18 *determines they determine* to be necessary for the dissemination
19 of information concerning the activities of the ~~board~~ *Department*
20 *of Toxics and Waste Management and the Department of Resources*
21 *Recycling and Recovery*, pursuant to this chapter.

22 SEC. 281. *Section 42882 of the Public Resources Code is*
23 *amended to read:*

24 42882. In carrying out this chapter, ~~the-board~~ *Department of*
25 *Toxics and Waste Management and the Department of Resources*
26 *Recycling and Recovery* may solicit and use any and all expertise
27 available in other state agencies, including, but not limited to, the
28 State Board of Equalization, and, where an existing state agency
29 performs functions of a similar nature to the ~~board's~~ functions of
30 *the Department of Toxics and Waste Management and the*
31 *Department of Resources Recycling and Recovery*, ~~the-board~~
32 *Department of Toxics and Waste Management and the Department*
33 *of Resources Recycling and Recovery* may contract with, or
34 cooperate with that agency in carrying out this chapter. If the ~~board~~
35 *Department of Resources Recycling and Recovery* contracts with
36 the State Board of Equalization to collect the fee imposed in
37 Section 42885, the State Board of Equalization may collect that
38 fee pursuant to the Fee Collection Procedures Law (Part 30
39 (commencing with Section 55001) of Division 2 of the Revenue
40 and Taxation Code).

1 SEC. 282. *Section 42883 of the Public Resources Code is*
2 *amended to read:*

3 42883. The recipient of a grant, subsidy, or loan pursuant to
4 Article 3 (commencing with Section 42870) shall, on or before
5 January 1 of each year, submit a report to the ~~board~~ *Department*
6 *of Resources Recycling and Recovery* containing information
7 required by the ~~board~~ *Department of Resources Recycling and*
8 *Recovery*, including, but not limited to, the number of used whole
9 tires recycled, which is necessary to measure the success of the
10 ~~recipient's~~ *recipient's* program in reducing the number of tires
11 disposed of in landfills or stockpiled.

12 SEC. 283. *Section 42885 of the Public Resources Code, as*
13 *amended by Section 55 of Chapter 77 of the Statutes of 2006, is*
14 *amended to read:*

15 42885. (a) For purposes of this section, "California tire fee"
16 means the fee imposed pursuant to this section.

17 (b) (1) A person who purchases a new tire, as defined in
18 subdivision (g), shall pay a California tire fee of one dollar and
19 seventy-five cents (\$1.75) per tire.

20 (2) The retail seller shall charge the retail purchaser the amount
21 of the California tire fee as a charge that is separate from, and not
22 included in, any other fee, charge, or other amount paid by the
23 retail purchaser.

24 (3) The retail seller shall collect the California tire fee from the
25 retail purchaser at the time of sale and may retain 1 ½ percent of
26 the fee as reimbursement for any costs associated with the
27 collection of the fee. The retail seller shall remit the remainder to
28 the state on a quarterly schedule for deposit in the California Tire
29 Recycling Management Fund, which is hereby created in the State
30 Treasury.

31 (c) The ~~board~~ *Department of Resources Recycling and Recovery*,
32 or its agent authorized pursuant to Section 42882, shall be
33 reimbursed for its costs of collection, auditing, and making refunds
34 associated with the California Tire Recycling Management Fund,
35 but not to exceed 3 percent of the total annual revenue deposited
36 in the fund.

37 (d) The California tire fee imposed pursuant to subdivision (b)
38 shall be separately stated by the retail seller on the invoice given
39 to the customer at the time of sale. Any other disposal or

1 transaction fee charged by the retail seller related to the tire
2 purchase shall be identified separately from the California tire fee.

3 (e) A person or business who knowingly, or with reckless
4 disregard, makes a false statement or representation in a document
5 used to comply with this section is liable for a civil penalty for
6 each violation or, for continuing violations, for each day that the
7 violation continues. Liability under this section may be imposed
8 in a civil action and shall not exceed twenty-five thousand dollars
9 (\$25,000) for each violation.

10 (f) In addition to the civil penalty that may be imposed pursuant
11 to subdivision (e), the ~~board~~ *Department of Toxics and Waste*
12 *Management and the Department of Resources Recycling and*
13 *Recovery* may impose an administrative penalty in an amount not
14 to exceed five thousand dollars (\$5,000) for each violation of a
15 separate provision or, for continuing violations, for each day that
16 the violation continues, on a person who intentionally or
17 negligently violates a permit, rule, regulation, standard, or
18 requirement issued or adopted pursuant to this chapter. The ~~board~~
19 *Department of Toxics and Waste Management and the Department*
20 *of Resources Recycling and Recovery* shall adopt regulations that
21 specify the amount of the administrative penalty and the procedure
22 for imposing an administrative penalty pursuant to this subdivision.

23 (g) For purposes of this section, “new tire” means a pneumatic
24 or solid tire intended for use with on-road or off-road motor
25 vehicles, motorized equipment, construction equipment, or farm
26 equipment that is sold separately from the motorized equipment,
27 or a new tire sold with a new or used motor vehicle, as defined in
28 Section 42803.5, including the spare tire, construction equipment,
29 or farm equipment. “New tire” does not include retreaded, reused,
30 or recycled tires.

31 (h) The California tire fee shall not be imposed on a tire sold
32 with, or sold separately for use on, any of the following:

33 (1) A self-propelled wheelchair.

34 (2) A motorized tricycle or motorized quadricycle, as defined
35 in Section 407 of the Vehicle Code.

36 (3) A vehicle that is similar to a motorized tricycle or motorized
37 quadricycle and is designed to be operated by a person who, by
38 reason of the person’s physical disability, is otherwise unable to
39 move about as a pedestrian.

1 (i) This section shall remain in effect only until January 1, 2015,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2015, deletes or extends that date.

4 *SEC. 284. Section 42885 of the Public Resources Code, as*
5 *added by Chapter 707 of the Statutes of 2004, is amended to read:*

6 42885. (a) For purposes of this section, "California tire fee"
7 means the fee imposed pursuant to this section.

8 (b) (1) Every person who purchases a new tire, as defined in
9 subdivision (g), shall pay a California tire fee of seventy-five cents
10 (\$0.75) per tire.

11 (2) The retail seller shall charge the retail purchaser the amount
12 of the California tire fee as a charge that is separate from, and not
13 included in, any other fee, charge, or other amount paid by the
14 retail purchaser.

15 (3) The retail seller shall collect the California tire fee from the
16 retail purchaser at the time of sale and may retain 3 percent of the
17 fee as reimbursement for any costs associated with the collection
18 of the fee. The retail seller shall remit the remainder to the state
19 on a quarterly schedule for deposit in the California Tire Recycling
20 Management Fund, which is hereby created in the State Treasury.

21 (c) ~~The board~~ *Department of Resources Recycling and Recovery*,
22 or its agent authorized pursuant to Section 42882, shall be
23 reimbursed for its costs of collection, auditing, and making refunds
24 associated with the California Tire Recycling Management Fund,
25 but not to exceed 3 percent of the total annual revenue deposited
26 in the fund.

27 (d) The California tire fee imposed pursuant to subdivision (a)
28 shall be separately stated by the retail seller on the invoice given
29 to the customer at the time of sale. Any other disposal or
30 transaction fee charged by the retail seller related to the tire
31 purchase shall be identified separately from the California tire fee.

32 (e) Any person or business who knowingly, or with reckless
33 disregard, makes any false statement or representation in any
34 document used to comply with this section is liable for a civil
35 penalty for each violation or, for continuing violations, for each
36 day that the violation continues. Liability under this section may
37 be imposed in a civil action and shall not exceed twenty-five
38 thousand dollars (\$25,000) for each violation.

39 (f) In addition to the civil penalty that may be imposed pursuant
40 to subdivision (e), ~~the board~~ *Department of Toxics and Waste*

1 *Management and the Department of Resources Recycling and*
2 *Recovery* may impose an administrative penalty in an amount not
3 to exceed five thousand dollars (\$5,000) for each violation of a
4 separate provision or, for continuing violations, for each day that
5 the violation continues, on any person who intentionally or
6 negligently violates any permit, rule, regulation, standard, or
7 requirement issued or adopted pursuant to this chapter. The ~~board~~
8 *Department of Toxics and Waste Management and the Department*
9 *of Resources Recycling and Recovery* shall adopt regulations that
10 specify the amount of the administrative penalty and the procedure
11 for imposing an administrative penalty pursuant to this subdivision.

12 (g) For purposes of this section, “new tire” means a pneumatic
13 or solid tire intended for use with on-road or off-road motor
14 vehicles, motorized equipment, construction equipment, or farm
15 equipment that is sold separately from the motorized equipment,
16 or a new tire sold with a new or used motor vehicle, as defined in
17 Section 42803.5, including the spare tire, construction equipment,
18 or farm equipment. “New tire” does not include retreaded, reused,
19 or recycled tires.

20 (h) The California tire fee may not be imposed on any tire sold
21 with, or sold separately for use on, any of the following:

22 (1) Any self-propelled wheelchair.

23 (2) Any motorized tricycle or motorized quadricycle, as defined
24 in Section 407 of the Vehicle Code.

25 (3) Any vehicle that is similar to a motorized tricycle or
26 motorized quadricycle and is designed to be operated by a person
27 who, by reason of the person’s physical disability, is otherwise
28 unable to move about as a pedestrian.

29 (i) This section shall become operative on January 1, 2015.

30 SEC. 285. *Section 42885.5 of the Public Resources Code is*
31 *amended to read:*

32 42885.5. (a) The ~~board~~ *Department of Toxics and Waste*
33 *Management, in conjunction with the Department of Resources*
34 *Recycling and Recovery* shall adopt a five-year plan, which shall
35 be updated every two years, to establish goals and priorities for
36 the waste tire program and each program element.

37 (b) On or before July 1, 2001, and every two years thereafter,
38 the ~~board~~ *Department of Toxics and Waste Management, in*
39 *conjunction with the Department of Resources Recycling and*
40 *Recovery*, shall submit the adopted five-year plan to the appropriate

1 policy and fiscal committees of the Legislature. The ~~board~~
2 *Department of Toxics and Waste Management, in conjunction with*
3 *the Department of Resources Recycling and Recovery*, shall include
4 in the plan, programmatic and fiscal issues including, but not
5 limited to, the hierarchy used by the ~~board~~ *Department of Toxics*
6 *and Waste Management and the Department of Resources*
7 *Recycling and Recovery* to maximize productive uses of waste and
8 used tires, and the performance objectives and measurement criteria
9 used by the ~~board~~ *Department of Toxics and Waste Management*
10 *and the Department of Resources Recycling and Recovery* to
11 evaluate the success of its waste and used tire recycling program.
12 Additionally, the plan shall describe each program element's
13 effectiveness, based upon performance measures developed by the
14 ~~board~~, *Department of Toxics and Waste Management, in*
15 *conjunction with the Department of Resources Recycling and*
16 *Recovery*, including, but not limited to, the following:

17 (1) Enforcement and regulations relating to the storage of waste
18 and used tires.

19 (2) Cleanup, abatement, or other remedial action related to waste
20 tire stockpiles throughout the state.

21 (3) Research directed at promoting and developing alternatives
22 to the landfill disposal of waste tires.

23 (4) Market development and new technology activities for used
24 tires and waste tires.

25 (5) The waste and used tire hauler program and manifest system.

26 (6) A description of the grants, loans, contracts, and other
27 expenditures proposed to be made by the ~~board~~ *Department of*
28 *Toxics and Waste Management and the Department of Resources*
29 *Recycling and Recovery* under the tire recycling program.

30 (7) Until June 30, 2010, the grant program authorized under
31 Section 42872.5 to encourage the use of rubberized asphalt concrete
32 technology in public works projects.

33 (8) Border region activities, conducted in coordination with the
34 California Environmental Protection Agency, including, but not
35 limited to, all of the following:

36 (A) Training programs to assist Mexican waste and used tire
37 haulers to meet the requirements for hauling those tires in
38 California.

39 (B) Environmental education training.

1 (C) Development of a waste tire abatement plan, with the
2 appropriate government entities of California and Mexico.

3 (D) Tracking both the legal and illegal waste and used tire flow
4 across the border and recommended revisions to the waste tire
5 policies of California and Mexico.

6 (E) Coordination with businesses operating in the border region
7 and with Mexico, with regard to applying the same environmental
8 and control requirements throughout the border region.

9 (c) ~~The board~~ *Department of Resources Recycling and Recovery*
10 shall base the budget for the California Tire Recycling Act and
11 program funding on the plan.

12 (d) The plan may not propose financial or other support that
13 promotes, or provides for research for the incineration of tires.

14 *SEC. 286. Section 42888 of the Public Resources Code is*
15 *amended to read:*

16 42888. (a) Except as agreed to by the ~~board~~ *Department of*
17 *Resources Recycling and Recovery*, no refund shall be approved
18 by the ~~board~~ *Department of Resources Recycling and Recovery*
19 after three years from the date the payment was due for which the
20 overpayment was made, or with respect to deficiency or jeopardy
21 determinations, after six months from the date the determinations
22 become final, or after six months from the date of overpayment,
23 whichever period expires later, unless a claim therefor is filed with
24 the ~~board~~ *Department of Resources Recycling and Recovery* within
25 that period. No credit shall be approved by the ~~board~~ *Department*
26 *of Resources Recycling and Recovery* after the expiration of that
27 period, unless a claim for credit is filed with the ~~board~~ *Department*
28 *of Resources Recycling and Recovery* within that period or unless
29 the credit relates to a period for which a waiver is given by the
30 ~~board~~ *Department of Resources Recycling and Recovery*.

31 (b) A refund may be approved by the ~~board~~ *Department of*
32 *Resources Recycling and Recovery* for any period agreed to by the
33 ~~board~~ *Department of Resources Recycling and Recovery* for good
34 cause if a claim for the referral is filed with the ~~board~~ *Department*
35 *of Resources Recycling and Recovery* before the expiration of the
36 period agreed upon.

37 *SEC. 287. Section 42889 of the Public Resources Code, as*
38 *amended by Section 26 of Chapter 696 of the Statutes of 2008, is*
39 *amended to read:*

1 42889. (a) Commencing January 1, 2005, of the moneys
2 collected pursuant to Section 42885, an amount equal to
3 seventy-five cents (\$0.75) per tire on which the fee is imposed
4 shall be transferred by the State Board of Equalization to the Air
5 Pollution Control Fund. The state board shall expend those moneys,
6 or allocate those moneys to the districts for expenditure, to fund
7 programs and projects that mitigate or remediate air pollution
8 caused by tires in the state, to the extent that the state board or the
9 applicable district determines that the program or project
10 remediates air pollution harms created by tires upon which the fee
11 described in Section 42885 is imposed.

12 (b) The remaining moneys collected pursuant to Section 42885
13 shall be used to fund the waste tire program, and shall be
14 appropriated to the ~~board~~ *Department of Toxics and Waste*
15 *Management and the Department of Resources Recycling and*
16 *Recovery* in the annual Budget Act in a manner consistent with
17 the five-year plan adopted and updated by the ~~board~~ *Department*
18 *of Toxics and Waste Management and the Department of Resources*
19 *Recycling and Recovery*. These moneys shall be expended for the
20 payment of refunds under this chapter and for the following
21 purposes:

22 (1) To pay the administrative overhead cost of this chapter, not
23 to exceed 6 percent of the total revenue deposited in the fund
24 annually, or an amount otherwise specified in the annual Budget
25 Act.

26 (2) To pay the costs of administration associated with collection,
27 making refunds, and auditing revenues in the fund, not to exceed
28 3 percent of the total revenue deposited in the fund, as provided
29 in subdivision (c) of Section 42885.

30 (3) To pay the costs associated with operating the tire recycling
31 program specified in Article 3 (commencing with Section 42870).

32 (4) To pay the costs associated with the development and
33 enforcement of regulations relating to the storage of waste tires
34 and used tires. The ~~board~~ *Department of Toxics and Waste*
35 *Management* shall consider designating a city, county, or city and
36 county as the enforcement authority of regulations relating to the
37 storage of waste tires and used tires, as provided in subdivision
38 (c) of Section 42850, and regulations relating to the hauling of
39 waste and used tires, as provided in subdivision (b) of Section
40 42963. If the ~~board~~ *Department of Toxics and Waste Management*

1 designates a local entity for that purpose, the ~~board~~ *Department*
2 *of Toxics and Waste Management*, in conjunction with the
3 *Department of Resources Recycling and Recovery*, shall provide
4 sufficient, stable, and noncompetitive funding to that entity for
5 that purpose, based on available resources, as provided in the
6 five-year plan adopted and updated as provided in subdivision (a)
7 of Section 42885.5. The ~~board~~ *Department of Toxics and Waste*
8 *Management* may consider and create, as appropriate, financial
9 incentives for citizens who report the illegal hauling or disposal
10 of waste tires as a means of enhancing local and statewide waste
11 tire and used tire enforcement programs.

12 (5) To pay the costs of cleanup, abatement, removal, or other
13 remedial action related to waste tire stockpiles throughout the state,
14 including all approved costs incurred by other public agencies
15 involved in these activities by contract with the ~~board~~ *Department*
16 *of Toxics and Waste Management*. Not less than six million five
17 hundred thousand dollars (\$6,500,000) shall be expended by the
18 ~~board~~ *Department of Toxics and Waste Management* during each
19 of the following fiscal years for this purpose: 2001–02 to 2006–07,
20 inclusive.

21 (6) To make studies and conduct research directed at promoting
22 and developing alternatives to the landfill disposal of waste tires.

23 (7) To assist in developing markets and new technologies for
24 used tires and waste tires. The ~~board's~~ *Department of Resources*
25 *Recycling and Recovery's* expenditure of funds for purposes of
26 this subdivision shall reflect the priorities for waste management
27 practices specified in subdivision (a) of Section 40051.

28 (8) To pay the costs associated with implementing and operating
29 a waste tire and used tire hauler program and manifest system
30 pursuant to Chapter 19 (commencing with Section 42950).

31 (9) To pay the costs to create and maintain an emergency
32 reserve, which shall not exceed one million dollars (\$1,000,000).

33 (10) To pay the costs of cleanup, abatement, or other remedial
34 action related to the disposal of waste tires in implementing and
35 operating the Farm and Ranch Solid Waste Cleanup and Abatement
36 Grant Program established pursuant to Chapter 2.5 (commencing
37 with Section 48100) of Part 7.

38 (c) This section shall remain in effect only until January 1, 2015,
39 and as of that date is repealed, unless a later enacted statute that
40 is enacted before January 1, 2015, deletes or extends that date.

SEC. 288. *Section 42889 of the Public Resources Code, as amended by Section 27 of Chapter 696 of the Statutes of 2008, is amended to read:*

42889. Funding for the waste tire program shall be appropriated to the ~~board~~ *Department of Toxics and Waste Management and the Department of Resources Recycling and Recovery* in the annual Budget Act. The moneys in the fund shall be expended for the payment of refunds under this chapter and for the following purposes:

(a) To pay the administrative overhead cost of this chapter, not to exceed 5 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.

(b) To pay the costs of administration associated with collection, making refunds, and auditing revenues in the fund, not to exceed 3 percent of the total revenue deposited in the fund, as provided in subdivision (b) of Section 42885.

(c) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(d) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The ~~board~~ *Department of Toxics and Waste Management* shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850, and regulations relating to the hauling of waste and used tires, as provided in subdivision (b) of Section 42963. If the ~~board~~ *Department of Toxics and Waste Management* designates a local entity for that purpose, the ~~board~~ *Department of Toxics and Waste Management* shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42855.5. The ~~board~~ *Department of Toxics and Waste Management* may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

(e) To pay the costs of cleanup, abatement, removal, or other remedial action related to waste tire stockpiles throughout the state,

1 including all approved costs incurred by other public agencies
2 involved in these activities by contract with the ~~board~~ Department
3 of Toxics and Waste Management. Not less than six million five
4 hundred thousand dollars (\$6,500,000) shall be expended by the
5 ~~board~~ Department of Toxics and Waste Management during each
6 of the following fiscal years for this purpose: 2001–02 to 2006–07,
7 inclusive.

8 (f) This section shall become operative on January 1, 2015.

9 SEC. 289. Section 42889.3 of the Public Resources Code is
10 amended to read:

11 42889.3. On or before January 1 of each year, the Department
12 of Transportation shall report to the Legislature and the ~~board~~
13 Department of Resources Recycling and Recovery on the use of
14 waste tires in transportation and civil engineering projects during
15 the previous five years, including, but not limited to, the
16 approximate number of waste tires used every year, and the types
17 and location of these projects.

18 SEC. 290. Section 42910 of the Public Resources Code is
19 amended to read:

20 42910. (a) Not later than March 1, 1993, after holding a public
21 hearing, the ~~board~~ Department of Resources Recycling and
22 Recovery shall adopt a model ordinance for adoption by any local
23 agency relating to adequate areas for collecting and loading
24 recyclable materials in development projects.

25 (b) The ~~board~~ Department of Resources Recycling and Recovery
26 shall consult with representatives of the League of California Cities,
27 County Supervisors Association of California, American Planning
28 Association, American Institute of Architects, private and public
29 waste services, building construction and management, and retail
30 businesses in developing the model ordinance.

31 (c) Not later than January 1, 1993, the ~~board~~ Department of
32 Resources Recycling and Recovery shall distribute the draft model
33 ordinance to all local agencies and other interested parties for
34 review. Any comments shall be submitted to the ~~board~~ Department
35 of Resources Recycling and Recovery by February 1, 1993, for
36 consideration at the public hearing of the ~~board~~ Department of
37 Resources Recycling and Recovery to adopt the ordinance.

38 SEC. 291. Section 42912 of the Public Resources Code is
39 amended to read:

1 42912. (a) Not later than March 1, 2004, after holding a public
2 hearing, the ~~board~~ *Department of Resources Recycling and*
3 *Recovery* shall do all of the following:

4 (1) Adopt one or more model ordinances, suitable for
5 modification by a local agency, that the local agency may adopt
6 that will require a range of diversion rates of construction and
7 demolition waste materials from 50 to 75 percent, as determined
8 by the ~~board~~ *Department of Resources Recycling and Recovery*,
9 and as measured by weight.

10 (2) Consult with representatives of the League of California
11 Cities, the California State Association of Counties, private and
12 public waste services and building construction materials industry
13 and construction management personnel throughout the
14 development of the model ordinances.

15 (3) Compile a report on programs, other than a model ordinance,
16 that local governments and general contractors can implement to
17 increase diversion of construction and demolition waste materials.

18 (4) Post on the ~~board's~~ *Department of Resources Recycling and*
19 *Recovery's* Internet Web site, a report for general contractors on
20 methods by which contractors can increase diversion of
21 construction and demolition waste materials.

22 (5) Post on the ~~board's~~ *Department of Resources Recycling and*
23 *Recovery's* Internet Web site, a report for local governments with
24 suggestions of programs, in addition to adoption of the model
25 ordinance, to increase diversion of construction and demolition
26 waste materials.

27 (b) Not later than January 1, 2004, the ~~board~~ *Department of*
28 *Resources Recycling and Recovery* shall distribute the draft model
29 ordinance to all local agencies and other interested parties for
30 review. Any comments shall be submitted to the ~~board~~ *Department*
31 *of Resources Recycling and Recovery* by February 1, 2004, for
32 consideration at the public hearing of the ~~board~~ *Department of*
33 *Resources Recycling and Recovery* to adopt the ordinance.

34 SEC. 292. *Section 42920 of the Public Resources Code is*
35 *amended to read:*

36 42920. (a) On or before February 15, 2000, the ~~board~~
37 *Department of Resources Recycling and Recovery* shall adopt a
38 state agency model integrated waste management plan for source
39 reduction, recycling, and composting activities.

(b) (1) On or before July 1, 2000, each state agency shall develop and adopt, in consultation with the ~~board~~ *Department of Resources Recycling and Recovery*, an integrated waste management plan, in accordance with the requirements of this chapter. The plan shall build upon existing programs and measures, including the state agency model integrated waste management plan adopted by the ~~board~~ *Department of Resources Recycling and Recovery* pursuant to subdivision (a), that will reduce solid waste, reuse materials whenever possible, recycle recyclable materials, and procure products with recycled content in all state agency offices and facilities, including any leased locations. It is the intent of the Legislature that the local jurisdiction and the state agency or large state facility located within that jurisdiction work together to implement the state agency integrated waste management plan.

(2) Each state agency shall submit an adopted integrated waste management plan to the ~~board~~ *Department of Resources Recycling and Recovery* for review and approval on or before July 15, 2000. The ~~board~~ *Department of Resources Recycling and Recovery* shall adopt procedures for reviewing and approving those integrated waste management plans. The ~~board~~ *Department of Resources Recycling and Recovery* shall complete its plan review process on or before January 1, 2001.

(3) If a state agency has not submitted an adopted integrated waste management plan or the model integrated waste management plan with revisions to the ~~board~~ *Department of Resources Recycling and Recovery* by January 1, 2001, or if the ~~board~~ *Department of Resources Recycling and Recovery* has disapproved the plan that was submitted, then the model integrated waste management plan, as revised by the ~~board~~ *Department of Resources Recycling and Recovery* in consultation with the agency, shall take effect on that date, or on a later date as determined by the ~~board~~ *Department of Resources Recycling and Recovery*, and shall have the same force and effect as if adopted by the state agency.

(c) Notwithstanding subdivision (e) of Section 12217 of the Public Contract Code, at least one solid waste reduction and recycling coordinator shall be designated by each state agency. The coordinator shall perform the duties imposed pursuant to this chapter using existing resources. The coordinator shall be responsible for implementing the integrated waste management

1 plan and shall serve as a liaison to other state agencies and
2 coordinators.

3 (d) ~~The board~~ *Department of Resources Recycling and Recovery*
4 shall provide technical assistance to state agencies for the purpose
5 of implementing the integrated waste management plan.

6 *SEC. 293. Section 42921.5 of the Public Resources Code is*
7 *amended to read:*

8 42921.5. (a) After January 1, 2009, ~~the board~~ *Department of*
9 *Resources Recycling and Recovery* shall determine each state
10 agency's or a large state facility's compliance with Section 42921,
11 for each year, commencing with January 1, 2007, by comparing
12 the per capita disposal rate in subsequent years with the equivalent
13 per capita disposal rate that would have been necessary for the
14 state agency or large state facility to comply with Section 42921
15 on January 1, 2007, as calculated pursuant to subdivision (d).

16 (b) In making a determination whether a state agency or large
17 state facility is in compliance with the requirements of Section
18 42921, ~~the board~~ *Department of Resources Recycling and Recovery*
19 may consider an agency's or facility's per capita disposal rate as
20 a factor in determining whether the state agency or large state
21 facility is adequately implementing its integrated waste
22 management plan. ~~The board~~ *Department of Resources Recycling*
23 *and Recovery* shall not consider a state, agency, or large state
24 facility's per capita disposal rate to be determinative when
25 considering whether the agency or facility is implementing its
26 integrated waste management plan.

27 (c) When determining whether an agency or facility is in
28 compliance with Section 42921, ~~the board~~ *Department of*
29 *Resources Recycling and Recovery* shall consider that an increase
30 in the per capita disposal rate is a result of disposal amounts
31 increasing faster than the growth of the state agency or large state
32 facility. ~~The board~~ *Department of Resources Recycling and*
33 *Recovery* shall use an increase in the per capita disposal rate that
34 is in excess of the equivalent per capita disposal rate as a factor in
35 determining whether ~~the board~~ *Department of Resources Recycling*
36 *and Recovery* is required to more closely examine the agency's or
37 facility's plan implementation efforts. If indicated by this
38 examination, ~~the board~~ *Department of Resources Recycling and*
39 *Recovery* may require a state agency or large state facility to expand
40 existing programs or implement new programs.

(d) (1) Except as provided in paragraph (2), “per capita disposal” or “per capita disposal rate” means the total annual disposal by a state agency or large state facility, in pounds, divided by total number of employees in that state agency or large state facility, and divided by 365 days.

(2) ~~The board~~ *Department of Resources Recycling and Recovery* may alternatively define per capita disposal or per capita disposal rate for a state agency or large state facility that has a significant amount of disposal from nonemployees or for other reasons that would make calculation of per capita disposal by the number of employees inaccurate.

SEC. 294. Section 42924 of the Public Resources Code is amended to read:

42924. (a) On or before February 15, 2000, ~~the board~~ *Department of Resources Recycling and Recovery* shall develop and adopt requirements relating to adequate areas for collecting, storing, and loading recyclable materials in state buildings. In developing the requirements, ~~the board~~ *Department of Resources Recycling and Recovery* may rely on the model ordinance adopted pursuant to Chapter 18 (commencing with Section 42900).

(b) Each state agency or large state facility, when entering into a new lease, or renewing an existing lease, shall ensure that adequate areas are provided for, and adequate personnel are available to oversee, the collection, storage, and loading of recyclable materials in compliance with the requirements established pursuant to subdivision (a).

(c) In the design and construction of state agency offices and facilities, the Department of General Services shall allocate adequate space for the collection, storage, and loading of recyclable materials in compliance with the requirements established pursuant to subdivision (a).

SEC. 295. Section 42925 of the Public Resources Code is amended to read:

42925. (a) Any cost savings realized as a result of the state agency integrated waste management plan shall, to the extent feasible, be redirected to the agency’s integrated waste management plan to fund plan implementation and administration costs, in accordance with Sections 12167 and 12167.1 of the Public Contract Code.

1 (b) The ~~board~~ *Department of Resources Recycling and Recovery*
2 shall establish and implement a waste reduction award program
3 for state agencies and large state facilities that develop, adopt, and
4 implement innovative and effective integrated waste management
5 plans in compliance with this chapter.

6 *SEC. 296. Section 42926 of the Public Resources Code is*
7 *amended to read:*

8 42926. (a) In addition to the information provided to the ~~board~~
9 *Department of Resources Recycling and Recovery* pursuant to
10 Section 12167.1 of the Public Contract Code, each state agency
11 shall submit an annual report to the ~~board~~ *Department of Resources*
12 *Recycling and Recovery* summarizing its progress in reducing solid
13 waste as required by Section 42921. The annual report shall be
14 due on or before September 1, 2009, and on or before September
15 1 in each subsequent year. The information in this report shall
16 encompass the previous calendar year.

17 (b) Each state agency's annual report to the ~~board~~ *Department*
18 *of Resources Recycling and Recovery* shall, at a minimum, include
19 all of the following:

20 (1) Calculations of annual disposal reduction.

21 (2) Information on the changes in waste generated or disposed
22 of due to increases or decreases in employees, economics, or other
23 factors.

24 (3) A summary of progress made in implementing the integrated
25 waste management plan.

26 (4) The extent to which the state agency intends to utilize
27 programs or facilities established by the local agency for the
28 handling, diversion, and disposal of solid waste. If the state agency
29 does not intend to utilize those established programs or facilities,
30 the state agency shall identify sufficient disposal capacity for solid
31 waste that is not source reduced, recycled, or composted.

32 (5) Other information relevant to compliance with Section
33 42921.

34 (c) The ~~board~~ *Department of Resources Recycling and Recovery*
35 shall use, but is not limited to the use of, the annual report in the
36 determination of whether the agency's integrated waste
37 management plan needs to be revised.

38 *SEC. 297. Section 42927 of the Public Resources Code is*
39 *amended to read:*

1 42927. (a) A community college district shall give first priority
2 for the expenditure of the revenues derived from the sale of
3 recyclable materials resulting from the implementation of the
4 district's integrated waste management plan for the purposes of
5 offsetting the recycling program costs imposed pursuant to this
6 chapter.

7 (b) A community college district shall expend all cost savings
8 that result from implementation of the district's integrated waste
9 management plan pursuant to this chapter to fund the continued
10 implementation of the plan consistent with the requirement that
11 revenues from the sale of recyclable materials be used to offset
12 recycling program costs, as specified in Sections 12167 and
13 12167.1 of the Public Contract Code.

14 (c) A community college district shall provide information on
15 the quantities of recyclable materials collected for recycling
16 annually to the ~~board~~ *Department of Resources Recycling and*
17 *Recovery*, according to a schedule determined by the ~~board~~
18 *Department of Resources Recycling and Recovery* and the district.

19 *SEC. 298. Section 42951 of the Public Resources Code is*
20 *amended to read:*

21 42951. (a) Every person who engages in the transportation of
22 waste or used tires shall hold a valid waste and used tire hauler
23 registration, unless exempt as specified in Section 42954.

24 (b) A registered waste and used tire hauler shall only transport
25 waste or used tires to a facility that is permitted, excluded,
26 exempted, or otherwise authorized by the ~~board~~ *Department of*
27 *Toxics and Waste Management*, by statute, or by regulation, to
28 accept waste and used tires, or to a facility that lawfully accepts
29 waste or used tires for reuse or disposal.

30 *SEC. 299. Section 42952 of the Public Resources Code is*
31 *amended to read:*

32 42952. Except as provided in Section 42954, any person
33 engaged in transporting waste or used tires shall comply with all
34 of the following requirements:

35 (a) The person shall be registered as a waste and used tire hauler
36 with the ~~board~~ *Department of Toxics and Waste Management*.

37 (b) The person shall not advertise or represent himself or herself
38 as being in the business of a waste and used tire hauler without
39 being registered as a waste and used tire hauler by the ~~board~~
40 *Department of Toxics and Waste Management*.

1 *SEC. 300. Section 42953 of the Public Resources Code is*
2 *amended to read:*

3 42953. Any person who gives, contracts, or arranges with
4 another person to transport waste or used tires shall utilize only a
5 person holding a valid waste and used tire hauler registration from
6 the ~~board~~ *Department of Toxics and Waste Management*, unless
7 the hauler is exempt as specified in Section 42954.

8 *SEC. 301. Section 42954 of the Public Resources Code is*
9 *amended to read:*

10 42954. (a) A person who hauls waste or used tires is exempt
11 from registration under this chapter if at least one of the following
12 conditions is met:

13 (1) The person transports fewer than 10 waste or used tires at
14 any one time.

15 (2) The person is, or hauls used and waste tires in a vehicle
16 owned and operated by, the United States, the State of California,
17 or any county, city, town, or municipality in the state, except when
18 vehicles the public agency owns or operates are used as a waste
19 and used tire carrier for hire.

20 (3) The waste or used tires were inadvertently mixed or
21 commingled with solid waste, and it is not economical or safe to
22 remove or recover them.

23 (4) The vehicle originated outside the boundaries of the state
24 and is destined for a point outside the boundaries of the state, if
25 no waste or used tires are loaded or unloaded within the boundaries
26 of the state.

27 (5) The person is hauling waste or used tires for agricultural
28 purposes. However, notwithstanding Section 42961.5, a person
29 hauling waste or used tires for agricultural purposes shall carry a
30 manifest from the generator in the vehicle during transportation,
31 which may be destroyed after delivery.

32 (6) The waste or used tires were hauled by a common carrier
33 who transported something other than waste or used tires to an
34 original destination point and then transported waste or used tires
35 on the return part of the trip, and the revenue derived from the
36 waste or used tires is incidental when compared to the revenue
37 earned by the carrier.

38 (7) The person, who is not a waste tire generating business, is
39 transporting waste or used tires to an amnesty day event or to a
40 location as defined in subdivision (b) of Section 42951, and has

1 received written authorization, which includes specific conditions
2 and dates, from the local enforcement agency. The local
3 enforcement agency shall provide copies of any written
4 authorizations to the ~~board~~ *Department of Toxics and Waste*
5 *Management* within 30 days of their issuance.

6 (8) The person complies with any additional conditions for
7 exemption, as approved by the ~~board~~ *Department of Toxics and*
8 *Waste Management*.

9 (b) Any person who transports tires in violation of subdivision
10 (b) of Section 42951 shall not be exempt pursuant to subdivision
11 (a).

12 *SEC. 302. Section 42955 of the Public Resources Code is*
13 *amended to read:*

14 42955. An application for a new or renewed waste and used
15 tire hauler registration shall be made on a form approved by the
16 ~~board~~ *Department of Toxics and Waste Management*. The
17 application shall include, but not be limited to, all of the following:

18 (a) A vehicle description, vehicle identification number, vehicle
19 license number, and the name of the registered vehicle owner for
20 each vehicle used for transporting waste or used tires.

21 (b) The business name under which the hauler operates, and the
22 business owners' name, address, and telephone number.

23 (c) Other business names under which the hauler operates.

24 (d) A bond in favor of the State of California in the amount of
25 ten thousand dollars (\$10,000). Proof of bond renewal shall be
26 submitted with the application for annual renewal of a waste and
27 used tire hauler registration.

28 (e) Any additional information required by the ~~board~~ *Department*
29 *of Toxics and Waste Management*.

30 *SEC. 303. Section 42956 of the Public Resources Code is*
31 *amended to read:*

32 42956. (a) Upon approval of an application submitted pursuant
33 to Section 42955, the ~~board~~ *Department of Toxics and Waste*
34 *Management* shall issue a waste and used tire hauler registration
35 to be carried in the vehicle and a waste and used tire hauler decal
36 to be permanently affixed to the lower right hand corner of the
37 windshield.

38 (b) Any person who operates a vehicle or who authorizes the
39 operation of a vehicle that transports 10 or more tires without a
40 valid and current waste and used tire hauler registration, as issued

1 by the ~~board~~ *Department of Toxics and Waste Management*
2 pursuant to Section 42955, shall be subject to the enforcement
3 actions specified in Article 4 (commencing with Section 42962).

4 (c) The waste and used tire hauler registration shall be presented
5 upon demand of an authorized representative of the ~~board~~
6 *Department of Toxics and Waste Management*.

7 *SEC. 304. Section 42960 of the Public Resources Code is*
8 *amended to read:*

9 42960. (a) The ~~board~~ *Department of Toxics and Waste*
10 *Management* may suspend, revoke, or deny a waste and used tire
11 hauler registration for a period of up to three years, by filing an
12 accusation in accordance with the procedures of Sections 11505
13 to 11519, inclusive, of the Government Code, if the holder of the
14 registration does any of the following:

15 (1) Commits more than three violations of, or fails to comply
16 with any requirements of, this chapter or Chapter 16 (commencing
17 with Section 42800), or the regulations adopted pursuant to those
18 provisions, within a one year period.

19 (2) Commits, aids, or abets any violation of this chapter or
20 Chapter 16 (commencing with Section 42800), or the regulations
21 adopted pursuant to those provisions, or permits an agent to do so,
22 and the ~~board~~ *Department of Toxics and Waste Management*
23 determines that the violation poses an immediate threat of harm
24 to public safety or to the environment.

25 (3) Commits, aids, or abets a failure to comply with this chapter
26 or Chapter 16 (commencing with Section 42800), or the regulations
27 adopted pursuant to those provisions, or permits an agent to do so,
28 and the ~~board~~ *Department of Toxics and Waste Management*
29 determines that the failure to comply shows a repeating or recurring
30 occurrence or that the failure to comply may pose a threat to public
31 health or safety or the environment.

32 (4) Commits any misrepresentation or omission of a significant
33 fact or other required information in the application for a waste
34 and used tire hauler registration or commits any misrepresentation
35 or omission of fact on any manifest more than three times in one
36 year.

37 (b) The ~~board~~ *Department of Toxics and Waste Management*
38 may suspend, revoke, or deny a waste and used tire hauler
39 registration for a period of three years to five years, or may
40 suspend, revoke, or deny a waste and used tire hauler registration

1 permanently, in accordance with the procedures specified in
2 subdivision (a), under any of the following circumstances:

3 (1) The hauler's registration has been previously revoked or
4 denied for any violation specified in subdivision (a).

5 (2) The hauler has been previously fined pursuant to this chapter
6 or Chapter 16 (commencing with Section 42800).

7 (3) The ~~board~~ *Department of Toxics and Waste Management*
8 determines that the hauler's operations pose a significant threat to
9 public health and safety.

10 *SEC. 305. Section 42961 of the Public Resources Code is*
11 *amended to read:*

12 42961. If the ~~board~~ *Department of Toxics and Waste*
13 *Management* denies an application for registration, the applicant
14 may request a hearing by the ~~board~~ *Department of Toxics and*
15 *Waste Management*.

16 *SEC. 306. Section 42961.5 of the Public Resources Code is*
17 *amended to read:*

18 42961.5. (a) For purposes of this chapter, the following
19 definitions shall apply:

20 (1) "California Uniform Waste and Used Tire Manifest" means
21 a shipping document signed by a generator of waste or used tires,
22 a waste and used tire hauler, or the operator of a waste or used tire
23 facility or other destination that contains all of the information
24 required by the ~~board~~ *Department of Toxics and Waste*
25 *Management*, including, but not limited to, an accurate
26 measurement of the number of tires being shipped, the type or
27 types of the tires, the date the shipment originated, and the origin
28 and intended final destination of the shipment.

29 (2) "Waste and used tire hauler" means any person required to
30 be registered with the ~~board~~ *Department of Toxics and Waste*
31 *Management* pursuant to subdivision (a) of Section 42951.

32 (b) Any person generating waste or used tires that are transported
33 or submitted for transportation, for offsite handling, altering,
34 storage, disposal, or for any combination thereof, shall complete
35 a California Uniform Waste and Used Tire Manifest, as required
36 by the ~~board~~ *Department of Toxics and Waste Management*. The
37 generator shall provide the manifest to the waste and used tire
38 hauler at the time of transfer of the tires. Each generator shall
39 submit to the ~~board~~ *Department of Toxics and Waste Management*,
40 on a quarterly schedule, a legible copy of each manifest. The copy

submitted to the ~~board~~ *Department of Toxics and Waste Management* shall contain the signatures of the generator and the waste and used tire hauler.

(c) (1) Any waste and used tire hauler shall have the California Uniform Waste and Used Tire Manifest in his or her possession while transporting waste or used tires. The manifest shall be shown upon demand to any representative of the ~~board~~ *Department of Toxics and Waste Management*, any officer of the *Department of the California Highway Patrol*, any peace officer, as defined in Section 830.1 or 830.2 of the Penal Code, or any local public officer designated by the ~~board~~ *Department of Toxics and Waste Management*.

(2) Any waste and used tire hauler hauling waste or used tires for offsite handling, altering, storage, disposal, or any combination thereof, shall complete the California Uniform Waste and Used Tire Manifest as required by the ~~board~~ *Department of Toxics and Waste Management*. The waste and used tire hauler shall provide the manifest to the waste or used tire facility operator who receives the waste or used tires for handling, altering, storage, disposal, or any combination thereof. Each waste and used tire hauler shall submit to the ~~board~~ *Department of Toxics and Waste Management*, on a quarterly schedule, a legible copy of each manifest. The copy submitted to the ~~board~~ *Department of Toxics and Waste Management* shall contain the signatures of the generator and the facility operator.

(d) Each waste or used tire facility operator that receives waste or used tires for handling, altering, storage, disposal, or any combination thereof, that was transported with a manifest pursuant to this section, shall submit copies of each manifest provided by the waste and used tire hauler to the ~~board~~ *Department of Toxics and Waste Management* and the generator on a quarterly schedule. The copy submitted to the ~~board~~ *Department of Toxics and Waste Management* shall contain the signatures of each generator, each transporter, and the facility operator. If approved by the ~~board~~ *Department of Toxics and Waste Management*, in lieu of submitting a copy of each manifest used, a facility operator may submit an electronic report to the ~~board~~ *meeting the requirements of Section 42814 Department of Toxics and Waste Management*.

(e) The ~~board~~ *Department of Toxics and Waste Management* shall develop and implement a system for auditing manifests

submitted to the ~~board~~ *Department of Toxics and Waste Management* pursuant to this section, for the purpose of enforcing this section. The ~~board~~ *Department of Toxics and Waste Management* or its agent shall continuously conduct random sampling and matching of manifests submitted by any person generating waste or used tires, hauling waste or used tires, or operating waste or used tire facilities, to assure compliance with this section.

(f) (1) If approved by the ~~board~~ *Department of Toxics and Waste Management*, any waste and used tire generator, waste and used tire hauler, or operator of a waste tire facility that is subject to the manifest requirements of this section, may submit an electronic report to the ~~board~~ *Department of Toxics and Waste Management*, in lieu of submitting the copy of the manifest required. The electronic report shall include all information required to be on the California Uniform Waste and Used Tire Manifest, and any other information required by the ~~board~~ *Department of Toxics and Waste Management*.

(2) A waste and used tire generator, waste and used tire hauler, or operator of a waste tire facility that is subject to paragraph (1) may submit the electronic reports to the ~~board~~ *Department of Toxics and Waste Management* on a quarterly schedule.

SEC. 307. *Section 42962 of the Public Resources Code is amended to read:*

42962. (a) Any person who does any of the following shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each violation of a separate provision or for continuing violations for each day that violation continues:

(1) Intentionally or negligently violates any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter.

(2) Knowingly, or with reckless disregard, makes any false statement or representation in any application, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this chapter.

(b) Liability under subdivision (a) may be imposed in a civil action.

(c) In addition to the civil penalty that may be imposed pursuant to subdivision (a), the ~~board~~ *Department of Toxics and Waste Management* may impose civil penalties administratively in an

1 amount not to exceed five thousand dollars (\$5,000) for each
2 violation of a separate provision or for continuing violations for
3 each day that violation continues, on any person who intentionally
4 or negligently violates any permit, rule, regulation, standard, or
5 requirement issued or adopted pursuant to this chapter. The ~~board~~
6 *Department of Toxics and Waste Management* shall adopt
7 regulations that specify the procedures and amounts for the
8 imposition of administrative civil penalties pursuant to this
9 subdivision.

10 *SEC. 308. Section 42962.5 of the Public Resources Code is*
11 *amended to read:*

12 42962.5. Any traffic officer, as defined in Section 625 of the
13 Vehicle Code, and any peace officer, as specified in Section 830.1
14 of the Penal Code, may enforce this chapter as authorized
15 representatives of the ~~board~~ *Department of Toxics and Waste*
16 *Management*.

17 *SEC. 309. Section 42963 of the Public Resources Code is*
18 *amended to read:*

19 42963. (a) This chapter, or any regulations adopted pursuant
20 to Section 42966, is not a limitation on the power of a city, county,
21 or district to impose and enforce reasonable land use conditions
22 or restrictions on facilities that handle waste or used tires in order
23 to protect the public health and safety or the environment, including
24 preventing or mitigating potential nuisances, if the conditions or
25 restrictions do not conflict with, or impose less stringent
26 requirements than, this chapter or those regulations. However, this
27 chapter, including any regulations that are adopted pursuant to
28 Section 42966, is intended to establish a uniform statewide program
29 for the regulation of waste and used tire haulers that will prevent
30 the illegal disposal of tires, but which will not subject waste and
31 used tire haulers to multiple registration or manifest requirements.
32 Therefore, any local laws regulating the transportation of waste
33 or used tires are preempted by this chapter.

34 (b) Upon request of a city, county, or city and county, the ~~board~~
35 *Department of Toxics and Waste Management* may designate, in
36 writing, that city, county, or city and county to exercise the
37 enforcement authority granted to the ~~board~~ *Department of Toxics*
38 *and Waste Management* under this chapter. A city, county, or city
39 and county designated by the ~~board~~ *Department of Toxics and*
40 *Waste Management* pursuant to this subdivision shall follow the

1 same procedures set forth for the ~~board~~ *Department of Toxics and*
2 *Waste Management* under this article. This designation shall not
3 limit the authority of the ~~board~~ *Department of Toxics and Waste*
4 *Management* to take action it deems necessary or proper to ensure
5 the enforcement of this chapter.

6 *SEC. 310. Section 42964 of the Public Resources Code is*
7 *amended to read:*

8 42964. The ~~board~~ *Department of Toxics and Waste*
9 *Management* may expend funds from the California Tire Recycling
10 Management Fund, upon appropriation by the Legislature, for
11 purposes of implementation of this chapter.

12 *SEC. 311. Section 42966 of the Public Resources Code is*
13 *amended to read:*

14 42966. The ~~board~~ *Department of Toxics and Waste*
15 *Management* shall administer this chapter. The ~~board~~ *Department*
16 *of Toxics and Waste Management* may adopt any regulations
17 necessary or useful to carry out this chapter or any of the ~~board's~~
18 *Department of Toxics and Waste Management's* duties or
19 responsibilities imposed pursuant to this chapter. The ~~board~~
20 *Department of Toxics and Waste Management* shall initially, as
21 soon as possible, adopt emergency regulations in accordance with
22 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
23 3 of Title 2 of the Government Code, and for the purposes of that
24 chapter, including Section 11349.6 of the Government Code, the
25 adoption of these regulations is an emergency and shall be
26 considered by the Office of Administrative Law as necessary for
27 safety, and general welfare. Emergency regulations adopted
28 pursuant to this section shall remain in effect for a period not to
29 exceed 120 days.

30 *SEC. 312. Section 42967 of the Public Resources Code is*
31 *amended to read:*

32 42967. (a) The costs of administering this chapter shall be
33 paid from fees deposited in the California Tire Recycling
34 Management Fund pursuant to ~~subdivision (i)~~ of Section 42889.

35 (b) The ~~board~~ *Department of Toxics and Waste Management*
36 may develop a legislative proposal for an alternative fee system
37 for the payment of the costs of administering this chapter and
38 submit that proposal to the Legislature for its consideration as part
39 of the 1994–95 fiscal year budget review process.

1 *SEC. 313. Section 43020 of the Public Resources Code is*
2 *amended to read:*

3 43020. The ~~board~~ *Department of Toxics and Waste*
4 *Management* shall adopt and revise regulations which set forth
5 minimum standards for solid waste handling, transfer, composting,
6 transformation, and disposal, in accordance with this division, and
7 Section 117590 of, and Chapter 6.5 (commencing with Section
8 25100) of Division 20 of, the Health and Safety Code. The ~~board~~
9 *Department of Toxics and Waste Management* shall not include
10 any requirements that are already under the authority of the State
11 Air Resources Board for the prevention of air pollution or of the
12 state water board for the prevention of water pollution.

13 *SEC. 314. Section 43020.1 of the Public Resources Code is*
14 *amended to read:*

15 43020.1. (a) As part of the existing regulatory review process
16 for regulations adopted pursuant to this article, the ~~board~~
17 *Department of Toxics and Waste Management* may consider
18 whether the operational requirements that apply to nonhazardous
19 wood waste landfills should differ from the operational
20 requirements that apply to other categories of solid waste landfills,
21 such as those used for the disposal of municipal solid waste. If the
22 ~~board~~ *Department of Toxics and Waste Management* determines
23 that the operational requirements that apply to nonhazardous wood
24 waste landfills should differ from the operational requirements
25 that apply to other categories of solid waste landfills, such as those
26 used for the disposal of municipal solid waste, the ~~board~~
27 *Department of Toxics and Waste Management* shall revise its
28 regulations accordingly.

29 (b) For the purposes of this section, “nonhazardous wood waste
30 landfill” means a landfill that exclusively accepts untreated bark,
31 sawdust, shavings, and chips that are the byproducts of primary
32 wood product manufacturing and processes that are not used as
33 raw material and that are destined for disposal. “Nonhazardous
34 wood waste landfill” does not include any landfill that accepts
35 chemically treated or adulterated bark, sawdust, shavings, and
36 chips that are the byproducts of primary wood product
37 manufacturing and processes that are not used as raw material and
38 that are destined for disposal.

39 (c) Nothing in this section is intended to authorize the ~~board~~
40 *Department of Toxics and Waste Management* to adopt regulations

1 which are less stringent than those adopted by the Environmental
2 Protection Agency pursuant to Part 256 (commencing with Section
3 256.01) of Title 40 of the Code of Federal Regulations.

4 *SEC. 315. Section 43030 of the Public Resources Code is*
5 *amended to read:*

6 43030. (a) The ~~board~~ *Department of Toxics and Waste*
7 *Management* shall adopt regulations that are consistent with Section
8 40055 governing the monitoring and control of the subsurface
9 migration of landfill gas.

10 (b) The ~~board~~ *Department of Toxics and Waste Management*
11 shall consult with the state water board, the State Air Resources
12 Board, and the California Air Pollution Control Officers
13 Association to ensure that the regulations do not conflict with any
14 regulations adopted by the state water board and the State Air
15 Resources Board or air pollution control districts and air quality
16 management districts.

17 (c) The regulations adopted by the ~~board~~ *Department of Toxics*
18 *and Waste Management* pursuant to subdivision (a) shall establish
19 monitoring and control standards, based on the potential of the
20 waste to generate landfill gas, as determined by the ~~board~~
21 *Department of Toxics and Waste Management*, and shall require
22 owners and operators of disposal sites or disposal facilities to report
23 monitoring data and to perform, or cause to be performed, site
24 inventories and evaluations of disposal sites or disposal facilities
25 for the subsurface migration of landfill gas.

26 (d) If an owner or operator of a disposal site or disposal facility
27 is in compliance with requirements of the air pollution control
28 district or the air quality management district within whose
29 jurisdiction the disposal site or disposal facility is located, the
30 owner or operator shall be deemed to be in compliance with this
31 section and with any regulations adopted by the ~~board~~ *Department*
32 *of Toxics and Waste Management* pursuant to this section.
33 However, owners or operators of disposal sites and disposal
34 facilities shall be required to comply with regulations adopted by
35 the ~~board~~ *Department of Toxics and Waste Management* pursuant
36 to this section, which impose requirements not addressed by the
37 requirements of the air pollution control district or the air quality
38 management district within whose jurisdiction the disposal site or
39 disposal facility is located.

1 *SEC. 316. Section 43035 of the Public Resources Code is*
2 *amended to read:*

3 43035. (a) ~~The board~~ Department of Toxics and Waste
4 Management, in cooperation with the ~~Office of Emergency Services~~
5 California Emergency Management Agency (Cal EMA), shall
6 develop an integrated waste management disaster plan to provide
7 for the handling, storage, processing, transportation, and diversion
8 from disposal sites, or provide for disposal at a disposal site where
9 absolutely necessary, of solid waste, resulting from a state of
10 emergency or a local emergency, as defined, respectively, in
11 subdivisions (b) and (c) of Section 8558 of the Government Code.

12 (b) ~~The board~~ Department of Toxics and Waste Management
13 may adopt regulations, including emergency regulations, necessary
14 to carry out the integrated waste management disaster plan.

15 *SEC. 317. Section 43040 of the Public Resources Code is*
16 *amended to read:*

17 43040. (a) ~~The board~~ Department of Toxics and Waste
18 Management shall adopt standards and regulations requiring that,
19 as a condition for the issuance, modification, revision, or review
20 of a solid waste facilities permit for a disposal facility, the operator
21 of the disposal facility shall provide assurance of adequate financial
22 ability to respond to personal injury claims and public or private
23 property damage claims resulting from the operations of the
24 disposal facility which occur before closure.

25 (b) To the extent practicable and consistent with federal law
26 and regulations, ~~the board~~ California Integrated Waste
27 Management Board and the state water board shall, on or before
28 January 1, 1994, develop a work plan for combining financial
29 assurance requirements for operating liability with financial
30 assurance requirements for corrective actions into one mechanism
31 which provides appropriate coverage for both purposes.

32 *SEC. 318. Section 43050 of the Public Resources Code is*
33 *amended to read:*

34 43050. (a) On or before January 1, 2008, ~~the board~~ California
35 Integrated Waste Management Board shall conduct a study to
36 define the conditions that potentially affect solid waste landfills,
37 including technologies and engineering controls designed to
38 mitigate potential risks, in order to identify potential long-term
39 threats to public health and safety and the environment. ~~The board~~
40 California Integrated Waste Management Board shall also study

1 various financial assurance mechanisms that would protect the
2 state from long-term postclosure and corrective action costs in the
3 event that a landfill owner or operator fails to meet its legal
4 obligations to fund postclosure maintenance or corrective action
5 during the postclosure period. The ~~board~~ *California Integrated*
6 *Waste Management Board*, on or before July 1, 2009, shall adopt
7 regulations and develop recommendations for needed legislation
8 to implement the findings of the study.

9 (b) In conducting the study described in subdivision (a), the
10 ~~board~~ *California Integrated Waste Management Board* shall
11 consult with representatives of the League of California Cities, the
12 County Supervisors Association of California, private and public
13 waste services, and environmental organizations.

14 *SEC. 319. Section 43101 of the Public Resources Code is*
15 *amended to read:*

16 43101. The Legislature hereby finds and declares as follows:

17 (a) The ~~board~~ *California Integrated Waste Management Board*
18 and the state water board have submitted a report entitled Joint
19 Report: Reforming the California Solid Waste Disposal Regulatory
20 Process, and have recommended legislation to the Governor and
21 the Legislature that identifies areas of regulatory overlap, conflict,
22 and duplication and makes recommendations for change.

23 (b) The report found that regulatory overlap, conflict, and
24 duplication were evident between the ~~board~~ *California Integrated*
25 *Waste Management Board* and the state water board and between
26 the ~~board~~ *California Integrated Waste Management Board* and
27 local enforcement agencies and that regulatory reform was
28 necessary to streamline the state's solid waste disposal regulatory
29 process. In addition, it was found that a recasting of the solid waste
30 facilities permit was warranted to make more efficient and
31 streamlined the permitting and regulation of solid waste disposal
32 facilities. The report also makes numerous other appropriate
33 recommendations for improving the manner in which the
34 management of solid waste is regulated by the state which require
35 immediate legislative response.

36 (c) It is, therefore, the intent of the Legislature, in enacting this
37 chapter, and in making the necessary revisions to this division and
38 Division 7 (commencing with Section 13000) of the Water Code
39 by the act enacting this chapter, to accomplish all of the following:

1 (1) As provided by Sections 40054 and 40055, the ~~board~~
2 *Department of Toxics and Waste Management*, the state water
3 board, and the regional water boards shall retain their appropriate
4 statutory authority over solid waste disposal facilities and sites. A
5 clear and concise division of authority shall be maintained in both
6 statute and regulation to remove all areas of overlap, duplication,
7 and conflict between the ~~board~~ *Department of Toxics and Waste*
8 *Management* and the state water board and regional water boards,
9 or between the ~~board~~ *Department of Toxics and Waste Management*
10 and any other state agency, as appropriate.

11 (2) The state water board and regional water boards shall be the
12 sole agencies regulating the disposal and classification of solid
13 waste for the purpose of protecting the waters of the state,
14 consistent with Section 40055, and the ~~board~~ *Department of Toxics*
15 *and Waste Management* and the certified local enforcement
16 agencies shall regulate all other aspects of solid waste disposal
17 within the scope of their appropriate regulatory authority.

18 (3) To effectuate that clear division of authority, the ~~board~~
19 *Department of Toxics and Waste Management* and the state water
20 board shall develop one consolidated set of solid waste disposal
21 facility regulations where distinct chapters are written and
22 implemented by the appropriate agency, and one consolidated
23 permit application, including one technical report to incorporate
24 the requirements of both the solid waste facilities permit and waste
25 discharge requirements.

26 (4) The process and timeframe for the review and approval of
27 the consolidated application shall be revised to allow, to the
28 greatest extent feasible, for the concurrent development and review
29 of the waste discharge requirements and the solid waste facilities
30 permit. The intent of this permit streamlining effort is to shorten
31 the overall timeframe for processing a permit and to accommodate
32 concurrent reviews by the local enforcement agency and the
33 regional water boards within a set timeframe.

34 (5) Any details of a concurrent permit approval process shall
35 be worked out in an implementation plan that is developed jointly
36 by the ~~board~~ *Department of Toxics and Waste Management* and
37 state water board with input from interested parties.

38 (6) If practicable, joint inspections of facilities shall be
39 conducted by the ~~board~~ *Department of Toxics and Waste*
40 *Management*, regional water boards, and local enforcement

1 agencies, and inspection reports shall be shared with any other
2 affected state or local agency.

3 (7) The closure and postclosure maintenance requirements of
4 the ~~board~~ *Department of Toxics and Waste Management* and the
5 state water board for solid waste landfills shall be combined into
6 one set of consolidated regulations which require one closure and
7 postclosure maintenance plan to be prepared for each solid waste
8 landfill.

9 (8) A clear and concise division of responsibilities shall be
10 maintained to minimize overlap and duplication of permitting,
11 inspection, and compliance duties between the ~~board~~ *Department*
12 *of Toxics and Waste Management* and certified local enforcement
13 agencies. The ~~board's~~ *Department of Toxics and Waste*
14 *Management's* primary role in regard to permitting and compliance
15 shall be to provide technical assistance and ongoing training and
16 support to local enforcement agencies, to ensure a local
17 enforcement agency's performance in complying with state
18 minimum standards, and to review permits and other documents
19 submitted by local enforcement agencies for ~~board~~ *Department of*
20 *Toxics and Waste Management* concurrence or approval. The ~~board~~
21 *Department of Toxics and Waste Management* shall strengthen the
22 state certification and evaluation program for local enforcement
23 agencies and shall set clear and uniform standards to be met by
24 local enforcement agencies.

25 (9) The Solid Waste Disposal Site Cleanup and Maintenance
26 Account shall be abolished and a solid waste disposal fee
27 established for deposit in the Integrated Waste Management
28 Account which provides adequate funding for all obligations
29 imposed pursuant to this division. In addition, the costs of the state
30 water board and the regional water boards of regulating solid waste
31 facilities shall be funded from the account.

32 (10) The Solid Waste Assessment Test Program shall continue
33 operating with resources from the Integrated Waste Management
34 Account until all of the ranked solid waste disposal sites are
35 reviewed.

36 (11) Responsibility for establishing and enforcing financial
37 responsibility requirements for solid waste landfills, from operation
38 through to cleanup, shall, to the greatest extent practicable and
39 consistent with applicable federal law, be consolidated into one

1 set of regulations administered by the ~~board~~ *Department of Toxics*
2 *and Waste Management*, in consultation with the state water board.

3 (12) At a minimum, the financial assurance requirements for
4 closure and postclosure maintenance shall be combined, and the
5 requirements for corrective action and operating liability shall be
6 reviewed, as required by subdivision (b) of Section 43040, to
7 determine if there can be further consolidation of financial
8 assurance requirements for solid waste landfills.

9 (13) The state water board or the appropriate regional water
10 board shall have access to the financial assurance funds for closure
11 and postclosure activities and to financial assurance funds for
12 corrective action, as necessary, to address water quality problems,
13 if the owner or operator has failed to implement the required
14 closure and postclosure activities or corrective action activities.

15 (d) It is the intent of the Legislature, in enacting this chapter,
16 and in making the necessary revisions to this division and Division
17 7 (commencing with Section 13000) of the Water Code, to ensure
18 that the state minimum standards for environmental protection at
19 solid waste disposal facilities are not reduced.

20 *SEC. 320. Section 43103 of the Public Resources Code is*
21 *amended to read:*

22 43103. The ~~board~~ *Department of Toxics and Waste*
23 *Management* and the state water board shall adopt regulations for
24 the implementation of the changes required by this chapter, and
25 the act adding this chapter.

26 *SEC. 321. Section 43200 of the Public Resources Code is*
27 *amended to read:*

28 43200. (a) The ~~board~~ *Department of Toxics and Waste*
29 *Management* shall prepare and adopt certification regulations for
30 local enforcement agencies. The regulations shall specify
31 requirements that a local agency shall meet before being designated
32 as an enforcement agency. The regulations shall include, but are
33 not limited to, all of the following:

34 (1) Technical expertise.

35 (2) (A) Adequacy of staff resources.

36 (B) For the purposes of this paragraph, the ~~board~~ *Department*
37 *of Toxics and Waste Management* shall adopt regulations for
38 specified enforcement agencies, as defined in subparagraph (C),
39 which meet all of the following requirements:

1 (i) The regulations shall not require a specific number of
2 person-hours or staff resources for the performance of duties as a
3 specified enforcement agency.

4 (ii) The regulations shall establish performance standards for
5 specified enforcement agencies which will provide a comparable
6 level of public health and safety and environmental protection to
7 that required of other local agencies certified pursuant to this
8 article.

9 (iii) The regulations shall establish procedures to ensure that all
10 duties required of specified enforcement agencies pursuant to this
11 article are actually performed.

12 (iv) The regulations shall require specified enforcement agency
13 personnel to receive a comparable level of training to that required
14 of personnel employed by other local agencies certified pursuant
15 to this article.

16 (C) For the purposes of subparagraph (B), “specified
17 enforcement agency” means a local enforcement agency which
18 has a population of less than 50,000 persons.

19 (3) Adequacy of budget resources.

20 (4) Training requirements.

21 (5) The existence of at least one permitted solid waste facility
22 within the jurisdiction of the local agency. For the purposes of this
23 paragraph, “permitted solid waste facility” includes a proposed
24 solid waste facility for which an environmental impact report or
25 negative declaration has been prepared and certified pursuant to
26 Division 13 (commencing with Section 21000) or for which a
27 conditional use permit has been issued by a city or county.

28 (b) The regulations adopted pursuant to subdivision (a) shall
29 specify four separate types of certifications for which an
30 enforcement agency may be designated, as follows:

31 (1) Permitting, inspection, and enforcement of regulations at
32 solid waste landfills.

33 (2) Permitting, inspection, and enforcement of solid waste
34 incinerators.

35 (3) Permitting, inspection, and enforcement of transfer and
36 processing stations.

37 (4) Inspection and enforcement of litter, odor, and nuisance
38 regulations at solid waste landfills.

39 *SEC. 322. Section 43201 of the Public Resources Code is*
40 *amended to read:*

1 43201. After August 1, 1992, no enforcement agency shall be
2 designated pursuant to this article unless the ~~board~~ *Department of*
3 *Toxics and Waste Management* determines that the agency fully
4 complies with one or more of the certification types specified in
5 Section 43200. No enforcement agency shall, after August 1, 1992,
6 exercise the powers of an enforcement agency pursuant to this
7 chapter unless the agency has been certified by the ~~board~~
8 *Department of Toxics and Waste Management*.

9 *SEC. 323. Section 43202 of the Public Resources Code is*
10 *amended to read:*

11 43202. An enforcement agency may be designated by the local
12 governing body and certified by the ~~board~~ *Department of Toxics*
13 *and Waste Management* to act to carry out this chapter within each
14 jurisdiction. If an enforcement agency is not designated and
15 certified, the ~~board~~ *Department of Toxics and Waste Management*,
16 in addition to its other powers and duties, shall be the enforcement
17 agency within the jurisdiction, subject to the agreement required
18 pursuant to Section 43212.1 or 43310.1.

19 *SEC. 324. Section 43204 of the Public Resources Code is*
20 *amended to read:*

21 43204. No enforcement agency may exercise the powers and
22 duties of an enforcement agency until the designation is approved
23 by the ~~board~~ *Department of Toxics and Waste Management*. After
24 August 1, 1992, the ~~board~~ *Department of Toxics and Waste*
25 *Management* shall not approve a designation unless it finds that
26 the designated enforcement agency is capable of fulfilling its
27 responsibilities under the enforcement program and meets the
28 certification requirements adopted by the ~~board~~ *Department of*
29 *Toxics and Waste Management* pursuant to Section 43200.

30 *SEC. 325. Section 43205 of the Public Resources Code is*
31 *amended to read:*

32 43205. (a) Except as provided in subdivision (b), if no
33 enforcement agency is designated and certified, the ~~board~~
34 *Department of Toxics and Waste Management* shall be the
35 enforcement agency and shall assume all the powers and duties of
36 an enforcement agency pursuant to this chapter, subject to the
37 agreement required pursuant to Section 43212.1 or 43310.1. If the
38 ~~board~~ *Department of Toxics and Waste Management* is the
39 enforcement agency and an enforcement agency is then designated
40 and certified by the ~~board~~ *Department of Toxics and Waste*

1 *Management, the—board Department of Toxics and Waste*
2 *Management shall continue to act as the enforcement agency for*
3 *the remainder of the fiscal year, with those responsibilities*
4 *terminating as of June 30, unless otherwise specified by the—board*
5 *Department of Toxics and Waste Management.*

6 (b) Notwithstanding subdivision (a), if no enforcement agency
7 is designated and certified for Stanislaus County or Santa Cruz
8 County, the—board *Department of Toxics and Waste Management*
9 shall be the enforcement agency, and shall assume all of the powers
10 and duties of an enforcement agency for that county, but shall not
11 be required to enter into the agreement required pursuant to
12 Sections 43212.1 or 43310.1.

13 (c) The—board *Department of Toxics and Waste Management*
14 and the enforcement agency shall not, at any time, impose
15 duplicative fees or charges on the owner or operator of a solid
16 waste facility.

17 *SEC. 326. Section 43207 of the Public Resources Code is*
18 *amended to read:*

19 43207. No local governmental department or agency, or any
20 employee thereof, which is the operating unit for a solid waste
21 handling or disposal operation shall be the enforcement agency,
22 or an employee thereof, for the types of solid waste handling or
23 disposal operation it conducts unless authorized by the—board
24 *Department of Toxics and Waste Management* to act in that
25 capacity.

26 *SEC. 327. Section 43209 of the Public Resources Code is*
27 *amended to read:*

28 43209. The enforcement agency, within its jurisdiction and
29 consistent with its certification by the—board *Department of Toxics*
30 *and Waste Management*, shall do all of the following:

31 (a) Enforce applicable provisions of this part, regulations
32 adopted under this part, and terms and conditions of permits issued
33 pursuant to Chapter 3 (commencing with Section 44001) 44000.5).

34 (b) Request enforcement by appropriate federal, state, and local
35 agencies of their respective laws governing solid waste storage,
36 handling, and disposal.

37 (c) File with the—board *Department of Toxics and Waste*
38 *Management*, upon its request, information the—board *Department*
39 *of Toxics and Waste Management* determines to be necessary.

1 (d) Develop, implement, and maintain inspection, enforcement,
2 permitting, and training programs.

3 (e) (1) Establish and maintain an enforcement program
4 consistent with regulations adopted by the ~~board~~ *Department of*
5 *Toxics and Waste Management* to implement this chapter, the
6 standards adopted pursuant to this chapter, and the terms and
7 conditions of permits issued pursuant to Chapter 3 (commencing
8 with Section ~~44001~~ *44000.5*).

9 (2) The enforcement agency may establish specific local
10 standards for solid waste handling and disposal subject to approval
11 by a majority vote of its local governing body, by resolution or
12 ordinance.

13 (3) A standard established pursuant to this subdivision shall be
14 consistent with this division and all regulations adopted by the
15 ~~board~~ *Department of Toxics and Waste Management*.

16 (f) Keep and maintain records of its inspection, enforcement,
17 permitting, training, and regulatory programs, and of any other
18 official action in accordance with regulations adopted by the ~~board~~
19 *Department of Toxics and Waste Management*.

20 (g) (1) Consult, as appropriate, with the appropriate local health
21 agency concerning all actions which involve health standards.

22 (2) The consultation required by this subdivision shall include
23 affording the health agency adequate notice and opportunity to
24 conduct and report the evaluation as it reasonably determines is
25 appropriate.

26 (h) Establish and maintain an inspection program.

27 (1) The inspection program required by this subdivision shall
28 be designed to determine whether any solid waste facility is
29 operating under any of the following:

30 (A) The facility is operating without a permit.

31 (B) The facility is operating in violation of state minimum
32 standards.

33 (C) The facility is operating in violation of the terms and
34 conditions of its solid waste facilities permit.

35 (D) The facility may pose a significant threat to public health
36 and safety or to the environment, based on any relevant
37 information.

38 (2) The inspection program established pursuant to this
39 subdivision shall also ensure frequent inspections of solid waste
40 facilities that have an established pattern of noncompliance with

1 this division, regulations adopted pursuant to this division, or the
2 terms and conditions of a solid waste facilities permit. The
3 inspection program may include public awareness activities,
4 enforcement to prevent the illegal dumping of solid waste, and the
5 abatement of the illegal dumping of solid waste.

6 *SEC. 328. Section 43209.1 of the Public Resources Code is*
7 *amended to read:*

8 43209.1. (a) Notwithstanding any other provision of law, if
9 an enforcement agency receives a complaint, pursuant to
10 subdivision (b) of Section 41705 of the Health and Safety Code,
11 from an air pollution control district or an air quality management
12 district pertaining to an odor emanating from a compost facility
13 under its jurisdiction, the enforcement agency shall, in consultation
14 with the district, take appropriate enforcement actions pursuant to
15 this part.

16 (b) On or before April 1, 1998, the ~~board~~ *California Integrated*
17 *Waste Management Board* shall convene a working group
18 consisting of enforcement agencies and air pollution control
19 districts and air quality management districts to assist in the
20 implementation of this section and Section 41705 of the Health
21 and Safety Code. On or before April 1, 1999, the ~~board~~ *California*
22 *Integrated Waste Management Board* and the working group shall
23 develop recommendations on odor measurement and thresholds,
24 complaint response procedures, and enforcement tools and take
25 any other action necessary to ensure that enforcement agencies
26 respond in a timely and effective manner to complaints of odors
27 emanating from composting facilities. On or before January 1,
28 2000, the ~~board~~ *California Integrated Waste Management Board*
29 shall implement the recommendations of the working group that
30 the ~~board~~ *California Integrated Waste Management Board*
31 determines to be appropriate.

32 (c) On or before April 1, 2003, the ~~board~~ *California Integrated*
33 *Waste Management Board* shall adopt and submit to the Office of
34 Administrative Law, pursuant to Section 11346.2 of the
35 Government Code, regulations governing the operation of organic
36 composting sites that include, but are not limited to, any of the
37 following:

- 38 (1) Odor management and threshold levels.
- 39 (2) Complaint investigation and response procedures.
- 40 (3) Enforcement tools.

(d) This section shall become inoperative on April 1, 2003, unless the ~~board~~ *California Integrated Waste Management Board* adopts and submits regulations governing the operation of organic composting sites to the Office of Administrative Law pursuant to subdivision (c) on or prior to that date.

SEC. 329. Section 43210 of the Public Resources Code is amended to read:

43210. For those facilities that accept only hazardous wastes, or accept only low-level radioactive wastes, or facilities that accept only both, and to which Chapter 6.5 (commencing with Section 25100) of Division 20 or Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code applies, the ~~board~~ *Department of Toxics and Waste Management* and the enforcement agency have no enforcement or regulatory authority. All enforcement activities for the facilities relative to the control of hazardous wastes shall be performed by the Department of ~~Toxic Substances Control~~ *Toxics and Waste Management* pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5 of Division 20 of the Health and Safety Code, and all enforcement activities relative to the control of low-level radioactive waste shall be performed by the State Department of Health Care Services pursuant to Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code.

SEC. 330. Section 43211 of the Public Resources Code is amended to read:

43211. (a) For those facilities that accept both hazardous wastes and other solid wastes, the Department of ~~Toxic Substances Control~~ *Toxics and Waste Management* shall exercise enforcement and regulatory powers relating to the control of the hazardous wastes at the facility pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. The ~~board~~ *Department of Toxics and Waste Management* and the enforcement agency shall, at solid waste disposal facilities, exercise enforcement and regulatory powers relating to the control of solid wastes and asbestos-containing waste, as provided in Section 44820.

(b) For purposes of this section, "asbestos containing waste" means waste that contains more than 1 percent by weight, of asbestos that is either friable or nonfriable.

1 *SEC. 331. Section 43212 of the Public Resources Code is*
2 *amended to read:*

3 43212. (a) If the ~~board~~ *Department of Toxics and Waste*
4 *Management* is the enforcement agency, the ~~board~~ *Department of*
5 *Toxics and Waste Management* may impose fees to recover its
6 costs of operation on the local governing body, a solid waste
7 facility operator, or a solid waste enterprise that operates within
8 the jurisdiction of the enforcement agency, and shall collect those
9 fees in a manner determined by the ~~board~~ *Department of Toxics*
10 *and Waste Management* and developed in consultation with the
11 local governing body. Any fees imposed pursuant to this section
12 shall bear a direct relationship to the reasonable and necessary
13 costs, as determined by the ~~board~~ *Department of Toxics and Waste*
14 *Management*, of providing for the efficient operation of the
15 activities or programs for which the fee is imposed.

16 (b) If the ~~board~~ *Department of Toxics and Waste Management*
17 is the enforcement agency for a county and all of the cities within
18 that county, the local governing body shall be the county ~~board~~
19 *Department of Toxics and Waste Management* of supervisors for
20 purposes of this section.

21 *SEC. 332. Section 43212.1 of the Public Resources Code is*
22 *amended to read:*

23 43212.1. If the ~~board~~ *Department of Toxics and Waste*
24 *Management* is the enforcement agency, the local governing body
25 and the ~~board~~ *Department of Toxics and Waste Management* shall
26 enter into an agreement which shall identify the jurisdictional
27 boundaries of the enforcement agency; address the powers and
28 duties to be performed by the ~~board~~ *Department of Toxics and*
29 *Waste Management* as the enforcement agency, and identify an
30 estimated workload and anticipated costs to the ~~board~~ *Department*
31 *of Toxics and Waste Management*.

32 *SEC. 333. Section 43214 of the Public Resources Code is*
33 *amended to read:*

34 43214. (a) The ~~board~~ *Department of Toxics and Waste*
35 *Management* shall develop performance standards for evaluating
36 certified local enforcement agencies and shall periodically review
37 each certified enforcement agency and its implementation of the
38 permit, inspection, and enforcement program. The ~~board's~~
39 *Department of Toxics and Waste Management's* review shall
40 include periodic inspections of solid waste facilities and disposal

1 sites within the jurisdiction of each enforcement agency for the
2 purpose of evaluating whether the enforcement agency is
3 appropriately applying and enforcing state minimum standards
4 within its jurisdiction.

5 (b) Following initial certification of an enforcement agency by
6 the ~~board~~ *Department of Toxics and Waste Management*, the ~~board~~
7 *Department of Toxics and Waste Management* shall conduct a
8 performance review of the enforcement agency every three years,
9 or more frequently as determined by the ~~board~~ *Department of*
10 *Toxics and Waste Management*.

11 (c) In conducting performance reviews of enforcement agencies,
12 the ~~board~~ *Department of Toxics and Waste Management* shall,
13 based on the performance standards developed pursuant to
14 subdivision (a), determine whether each enforcement agency is in
15 compliance with the requirements of this article and the regulations
16 adopted to implement this article. If the ~~board~~ *Department of Toxics*
17 *and Waste Management* finds that an enforcement agency is not
18 fulfilling its responsibilities pursuant to this article and if the ~~board~~
19 *Department of Toxics and Waste Management* also finds that this
20 lack of compliance has contributed to significant noncompliance
21 with state minimum standards at solid waste facilities or disposal
22 sites within the jurisdiction of the enforcement agency, the ~~board~~
23 *Department of Toxics and Waste Management* shall withdraw its
24 approval of designation pursuant to Sections 43215 and 43216.
25 Notwithstanding Sections 43215 and 43216, if the ~~board~~
26 *Department of Toxics and Waste Management* finds that conditions
27 at solid waste facilities or disposal sites within the jurisdiction of
28 the enforcement agency threaten public health and safety or the
29 environment, the ~~board~~ *Department of Toxics and Waste*
30 *Management* shall, within 10 days of notifying the enforcement
31 agency, become the enforcement agency until another enforcement
32 agency is designated locally and certified by the ~~board~~ *Department*
33 *of Toxics and Waste Management*.

34 (d) The ~~board~~ *Department of Toxics and Waste Management*
35 shall find that an enforcement agency is not fulfilling its
36 responsibilities pursuant to this article, and may take action as
37 prescribed by subdivision (c), if the ~~board~~ *Department of Toxics*
38 *and Waste Management*, in conducting its performance review,
39 makes one or more of the following findings with regard to

1 compliance with this part and Part 5 (commencing with Section
2 45000):

3 (1) The enforcement agency has failed to exercise due diligence
4 in the inspection of solid waste facilities and disposal sites.

5 (2) The enforcement agency has intentionally misrepresented
6 the results of inspections.

7 (3) The enforcement agency has failed to prepare, or cause to
8 be prepared, permits, permit revisions, or closure and postclosure
9 maintenance plans.

10 (4) The enforcement agency has approved permits, permit
11 revisions, or closure and postclosure maintenance plans that are
12 not consistent with this part and Part 5 (commencing with Section
13 45000).

14 (5) The enforcement agency has failed to take appropriate
15 enforcement actions.

16 (6) The enforcement agency has failed to comply with, or has
17 taken actions that are inconsistent with, or that are not authorized
18 by, this division or the regulations adopted by the ~~board~~
19 *Department of Toxics and Waste Management* pursuant to this
20 division. However, nothing in this paragraph is intended to affect
21 the authority of enforcement agencies pursuant to subdivision (e)
22 of Section 43209.

23 *SEC. 334. Section 43215 of the Public Resources Code is*
24 *amended to read:*

25 43215. (a) If the ~~board~~ *Department of Toxics and Waste*
26 *Management*, in conducting the inspection and performance review
27 required pursuant to Section 43214 or this section, finds that the
28 enforcement agency is not fulfilling one or more of its
29 responsibilities, the ~~board~~ *Department of Toxics and Waste*
30 *Management* shall notify the enforcement agency of the particular
31 reasons for finding that the enforcement agency is not fulfilling
32 its responsibilities and of the ~~board's~~ *Department of Toxics and*
33 *Waste Management's* intention to withdraw its approval of the
34 designation if, within a time to be specified in that notification,
35 but in no event less than 30 days, the enforcement agency does
36 not take the corrective action specified by the ~~board~~ *Department*
37 *of Toxics and Waste Management*.

38 (b) The ~~board~~ *Department of Toxics and Waste Management*
39 shall adopt regulations that establish a process for notice, public
40 hearing, the admission of evidence, and final action by the ~~board~~

1 *Department of Toxics and Waste Management* for partial or full
2 withdrawal of the approval of designation pursuant to this chapter.

3 *SEC. 335. Section 43215.1 of the Public Resources Code is*
4 *amended to read:*

5 43215.1. The ~~board~~ *Department of Toxics and Waste*
6 *Management* may, upon the written request of an enforcement
7 agency, provide legal counsel for purposes of compliance with
8 this part.

9 *SEC. 336. Section 43216 of the Public Resources Code is*
10 *amended to read:*

11 43216. If the ~~board~~ *Department of Toxics and Waste*
12 *Management* withdraws its approval of the designation of an
13 enforcement agency, another enforcement agency shall be
14 designated pursuant to Section 43203 within 90 days and approved
15 by the ~~board~~ *Department of Toxics and Waste Management*. If no
16 designation is made within 90 days, the ~~board~~ *Department of Toxics*
17 *and Waste Management* shall become the enforcement agency
18 within the jurisdiction of the former enforcement agency.

19 *SEC. 337. Section 43216.5 of the Public Resources Code is*
20 *amended to read:*

21 43216.5. In addition to the procedures for ~~board~~ *Department*
22 *of Toxics and Waste Management* withdrawal of its approval of a
23 local enforcement agency's designation pursuant to Sections 43214,
24 43215, and 43216, the ~~board~~ *Department of Toxics and Waste*
25 *Management* may take any actions which are determined by the
26 ~~board~~ *Department of Toxics and Waste Management* to be
27 necessary to ensure that local enforcement agencies fulfill their
28 obligations under this chapter. To ensure that a local enforcement
29 agency is appropriately fulfilling its obligations under this chapter
30 and implementing regulations, the ~~board~~ *Department of Toxics*
31 *and Waste Management* may conduct more frequent inspections
32 and evaluations within a local enforcement agency's jurisdiction,
33 establish a schedule and probationary period for improved
34 performance by a local enforcement agency, assume partial
35 responsibility for specified local enforcement agency duties, and
36 implement any other measures which may be determined by the
37 ~~board~~ *Department of Toxics and Waste Management* to be
38 necessary to improve local enforcement agency compliance.

39 *SEC. 338. Section 43217 of the Public Resources Code is*
40 *amended to read:*

1 43217. The ~~board~~ *Department of Toxics and Waste*
2 *Management* shall provide ongoing training, technical assistance,
3 and guidance to local enforcement agencies to assist in their
4 decisionmaking processes. This assistance shall include, but is not
5 limited to, providing all of the following:

- 6 (a) Technical studies and reports.
- 7 (b) Copies of innovative solid waste facility operation plans.
- 8 (c) Investigative findings and analyses of new solid waste
9 management practices and procedures.
- 10 (d) A program for loaning technical and scientific equipment,
11 to the extent that funds are available to the ~~board~~ *Department of*
12 *Toxics and Waste Management* to purchase that equipment.

13 *SEC. 339. Section 43218 of the Public Resources Code is*
14 *amended to read:*

15 43218. Each enforcement agency shall inspect each solid waste
16 facility within its jurisdiction at least one time each month and
17 shall file, within 30 days of the inspection, a written report in a
18 format prescribed by the ~~board~~ *Department of Toxics and Waste*
19 *Management*.

20 *SEC. 340. Section 43219 of the Public Resources Code is*
21 *amended to read:*

22 43219. (a) The ~~board~~ *Department of Toxics and Waste*
23 *Management* may, at its discretion, conduct inspections and
24 investigations of solid waste facilities in order to evaluate the local
25 enforcement agency and to ensure that state minimum standards
26 are met.

27 (b) Except as otherwise provided by Section 43220, the ~~board~~
28 *Department of Toxics and Waste Management*, in conjunction with
29 an inspection conducted by the local enforcement agency, shall
30 conduct inspections of solid waste facilities within the jurisdiction
31 of each local enforcement agency. The ~~board~~ *Department of Toxics*
32 *and Waste Management* shall inspect the types and number of
33 solid waste facilities which are determined by the ~~board~~
34 *Department of Toxics and Waste Management* to be necessary to
35 adequately evaluate whether the local enforcement agency is
36 ensuring compliance by solid waste facilities with state minimum
37 standards. A written inspection report shall be prepared and
38 submitted within 30 days of the inspection to the local enforcement
39 agency.

1 (c) If the ~~board~~ *Department of Toxics and Waste Management*
2 identifies any significant violation of state minimum standards
3 that were not identified and resolved through previous inspections
4 by the local enforcement agency, the ~~board~~ *Department of Toxics*
5 *and Waste Management* shall take appropriate action as authorized
6 by Sections 43215 and 43216.5.

7 (d) Notwithstanding any other provision of this section and
8 Sections 43215 and 43216, if, as a result of a facility inspection
9 conducted pursuant to subdivision (b), the ~~board~~ *Department of*
10 *Toxics and Waste Management* finds that conditions at a solid
11 waste facility within the jurisdiction of a local enforcement agency
12 threaten public health and safety or the environment, the ~~board~~
13 *Department of Toxics and Waste Management* shall, within 10
14 days of notifying the local enforcement agency, become the
15 enforcement agency until another local enforcement agency is
16 designated locally and certified by the ~~board~~ *Department of Toxics*
17 *and Waste Management*.

18 SEC. 341. Section 43220 of the Public Resources Code is
19 amended to read:

20 43220. The ~~board~~ *Department of Toxics and Waste*
21 *Management*, in conjunction with an inspection conducted by the
22 local enforcement agency, shall conduct at least one inspection
23 every 18 months of each solid waste landfill and transformation
24 facility in the state. A written inspection report shall be prepared
25 and submitted within 30 days of the inspection to the local
26 enforcement agency. If the ~~board~~ *Department of Toxics and Waste*
27 *Management* identifies any significant violation of state minimum
28 standards that was not resolved through previous inspections by
29 the local enforcement agency, the ~~board~~ *Department of Toxics and*
30 *Waste Management* shall take appropriate action as authorized by
31 Sections 43215 and 43216.5 and subdivision (d) of Section 43219.

32 SEC. 342. Section 43230 of the Public Resources Code is
33 amended to read:

34 43230. The ~~board~~ *Department of Toxics and Waste*
35 *Management* shall expend funds from the account, upon
36 appropriation by the Legislature, for the making of grants to local
37 enforcement agencies to carry out the solid waste facilities permit
38 and inspection program pursuant to Chapter 3 (commencing with
39 Section ~~44001~~ 44000.5). The total amount of grants made by the
40 ~~board~~ *Department of Toxics and Waste Management* pursuant to

1 this section shall not exceed, in any one fiscal year, one million
2 five hundred thousand dollars (\$1,500,000).

3 *SEC. 343. Section 43231 of the Public Resources Code is*
4 *amended to read:*

5 43231. The ~~board~~ Department of Toxics and Waste
6 Management shall adopt regulations for the implementation of this
7 article.

8 *SEC. 344. Section 43232 of the Public Resources Code is*
9 *amended to read:*

10 43232. All expenses which are incurred by the ~~board~~
11 Department of Toxics and Waste Management in carrying out this
12 article are payable solely from the account. No liability or
13 obligation is imposed upon the state pursuant to this part, and the
14 ~~board~~ Department of Toxics and Waste Management shall not
15 incur a liability or obligation beyond the extent to which money
16 is provided in the account for the purposes of this article.

17 *SEC. 345. Section 43300 of the Public Resources Code is*
18 *amended to read:*

19 43300. The ~~board~~ Department of Toxics and Waste
20 Management, when acting in its capacity as an enforcement agency,
21 may enforce all provisions of this division, and the regulations
22 adopted thereto, for the protection of the environment and the
23 public health and safety, and from nuisance.

24 *SEC. 346. Section 43301 of the Public Resources Code is*
25 *amended to read:*

26 43301. The ~~board~~ Department of Toxics and Waste
27 Management shall coordinate action in solid waste handling and
28 disposal with other federal, state, and local agencies and private
29 persons.

30 *SEC. 347. Section 43302 of the Public Resources Code is*
31 *amended to read:*

32 43302. The ~~board~~ Department of Toxics and Waste
33 Management may request enforcement by appropriate federal,
34 state, and local agencies of their respective laws governing solid
35 waste storage, handling, and disposal.

36 *SEC. 348. Section 43303 of the Public Resources Code is*
37 *amended to read:*

38 43303. The ~~board~~ Department of Toxics and Waste
39 Management shall develop, implement, and maintain inspection,
40 enforcement, and training programs.

1 *SEC. 349. Section 43304 of the Public Resources Code is*
2 *amended to read:*

3 43304. The ~~board~~ Department of Toxics and Waste
4 Management shall adopt an enforcement program consisting of
5 regulations necessary to implement this division and the standards
6 adopted pursuant thereto. The enforcement program shall include
7 a description for carrying out the permit and inspection program
8 pursuant to Chapter 3 (commencing with Section 44001).

9 *SEC. 350. Section 43305 of the Public Resources Code is*
10 *amended to read:*

11 43305. The ~~board~~ Department of Toxics and Waste
12 Management may, as it deems necessary, establish specific local
13 standards for solid waste handling and disposal after consultation
14 with the local governing body. However, the standards shall be
15 consistent with this division and all regulations adopted by the
16 ~~board~~ Department of Toxics and Waste Management.

17 *SEC. 351. Section 43306 of the Public Resources Code is*
18 *amended to read:*

19 43306. The ~~board~~ Department of Toxics and Waste
20 Management shall keep and maintain records of its inspection,
21 enforcement, training, and regulatory programs and of any other
22 official action in accordance with regulations adopted by the ~~board~~
23 Department of Toxics and Waste Management.

24 *SEC. 352. Section 43307 of the Public Resources Code is*
25 *amended to read:*

26 43307. The ~~board~~ Department of Toxics and Waste
27 Management shall consult with the appropriate local health agency
28 concerning all actions which involve health standards. The
29 consultation shall include granting the health agency adequate
30 notice and opportunity to conduct and report any evaluation that
31 it reasonably deems appropriate.

32 *SEC. 353. Section 43308 of the Public Resources Code is*
33 *amended to read:*

34 43308. For those facilities that accept only hazardous wastes
35 and to which Chapter 6.5 (commencing with Section 25100) of
36 Division 20 of the Health and Safety Code applies, or that accept
37 only low-level radioactive wastes and to which Chapter 8
38 (commencing with Section 114960) of Part 9 of Division 104 of
39 the Health and Safety Code applies, or for those facilities that
40 accept both, the ~~board~~ Department of Toxics and Waste

1 *Management* shall have no enforcement or regulatory authority.
2 Except as otherwise provided in Section 40052, all enforcement
3 activities for those facilities relative to the control of hazardous
4 wastes shall be performed by the Department of ~~Toxic Substances~~
5 ~~Control~~ *Toxics and Waste Management* pursuant to Article 8
6 (commencing with Section 25180) of Chapter 6.5 of Division 20
7 of the Health and Safety Code, and all enforcement activities for
8 those facilities relative to low-level radioactive wastes shall be
9 performed by the State Department of Health *Care Services*
10 pursuant to Chapter 8 (commencing with Section 114960) of Part
11 9 of Division 104 of the Health and Safety Code.

12 *SEC. 354. Section 43309 of the Public Resources Code is*
13 *amended to read:*

14 43309. The ~~board~~ *Department of Toxics and Waste*
15 *Management* may adopt regulations specifying the operations
16 subject to the exception in paragraph (3) of subdivision (b) of
17 Section 40200. The regulations shall prohibit the storing of more
18 than 90 cubic yards of waste in covered containers during any
19 72-hour period and the transfer of uncontainerized refuse from
20 smaller refuse hauling motor vehicles to larger refuse transfer
21 motor vehicles for transport to the point of ultimate disposal.

22 *SEC. 355. Section 43310 of the Public Resources Code is*
23 *amended to read:*

24 43310. If the ~~board~~ *Department of Toxics and Waste*
25 *Management* becomes the enforcement agency, it may charge
26 reasonable fees to the local governing body to recover operation
27 costs.

28 *SEC. 356. Section 43310.1 of the Public Resources Code is*
29 *amended to read:*

30 43310.1. (a) If the ~~board~~ *Department of Toxics and Waste*
31 *Management* becomes the enforcement agency, on or after January
32 1, 1995, the local governing body and the ~~board~~ *Department of*
33 *Toxics and Waste Management* shall enter into an agreement which
34 shall identify the jurisdictional boundaries of the enforcement
35 agency; address the powers and duties to be performed by the
36 ~~board~~ *Department of Toxics and Waste Management* as the
37 enforcement agency, and identify an estimated workload and
38 anticipated costs to the ~~board~~ *Department of Toxics and Waste*
39 *Management*. The agreement shall also identify the cost recovery

1 procedures to be followed by the ~~board~~ *Department of Toxics and*
2 *Waste Management* pursuant to Section 43310.

3 (b) If, after a good faith effort by the ~~board~~ *Department of Toxics*
4 *and Waste Management* and the local governing body, no
5 agreement is reached between the local governing body and the
6 ~~board~~ *Department of Toxics and Waste Management* within the
7 90-day period specified in Section 43216, or within 90 days after
8 a local governing body notifies the ~~board~~ *Department of Toxics*
9 *and Waste Management* of its intent not to designate an
10 enforcement agency pursuant to Section 43203, the ~~board~~
11 *Department of Toxics and Waste Management* shall make the
12 determinations specified in subdivision (a) that would have been
13 the subject of the agreement.

14 (c) If the ~~board~~ *Department of Toxics and Waste Management*
15 becomes the enforcement agency for Stanislaus County or Santa
16 Cruz County, the ~~board~~ *Department of Toxics and Waste*
17 *Management* shall impose fees authorized pursuant to this section
18 directly on the solid waste facilities in those counties, and shall
19 not require the local governing body to impose or collect those
20 fees.

21 *SEC. 357. Section 43501 of the Public Resources Code is*
22 *amended to read:*

23 43501. (a) A person owning or operating a solid waste landfill,
24 as defined in Section 40195.1, shall do both of the following:

25 (1) Upon application to become an operator of a solid waste
26 facility pursuant to Section 44001, certify to the ~~board~~ *Department*
27 *of Toxics and Waste Management* and the local enforcement agency
28 that all of the following have been accomplished:

29 (A) The owner or operator has prepared an initial estimate of
30 closure and postclosure maintenance costs.

31 (i) The ~~board~~ *Department of Toxics and Waste Management*
32 shall adopt regulations that provide for an increase in the initial
33 closure and postclosure maintenance cost estimates to account for
34 cost overruns due to unforeseeable circumstances, and to provide
35 a reasonable contingency comparable to that which is built into
36 cost estimates for other, similar public works projects.

37 (ii) The ~~board~~ *California Integrated Waste Management Board*
38 shall adopt regulations on or before January 1, 2008, that require
39 closure and postclosure maintenance cost estimates to be based
40 on reasonably foreseeable costs the state may incur if the state

1 would have to assume responsibility for the closure and postclosure
2 maintenance due to the failure of the owner or operator. Cost
3 estimates shall include, but not be limited to, estimates in
4 compliance with Sections 1770, 1773, and 1773.1 of the Labor
5 Code, and the replacement and repair costs for longer lived items,
6 including, but not limited to, repair of the environmental control
7 systems.

8 (B) The owner or operator has established a trust fund or
9 equivalent financial arrangement acceptable to the ~~board~~
10 *Department of Toxics and Waste Management*, as specified in
11 Article 4 (commencing with Section 43600).

12 (C) The amounts that the owner or operator will deposit annually
13 in the trust fund or equivalent financial arrangement acceptable to
14 the ~~board~~ *Department of Toxics and Waste Management* will ensure
15 adequate resources for closure and postclosure maintenance.

16 (2) Submit to the regional water board, the local enforcement
17 agency, and the ~~board~~ *Department of Toxics and Waste*
18 *Management* a plan for the closure of the solid waste landfill and
19 a plan for the postclosure maintenance of the solid waste landfill.

20 (b) Notwithstanding subparagraph (C) of paragraph (1) of
21 subdivision (a) or any other provision of law, if the owner or
22 operator is a county with a population of 200,000 or less, as
23 determined by the 1990 decennial census, the county shall not be
24 required to make annual deposits in excess of the amount required
25 by the federal act or any other applicable federal law, or by any
26 ~~board-approved~~ *Department of Toxics and Waste*
27 *Management-approved* formula that meets the requirements of the
28 federal act.

29 (c) If not in conflict with federal law or regulations, a county
30 or city may, with regard to a solid waste landfill owned or operated
31 by the county or city, base its estimate of closure and postclosure
32 maintenance costs on the costs of employing county or city
33 employees or persons under contract with the county or city in
34 performing closure and postclosure maintenance. However, even
35 if, to meet federal requirements, the cost estimate is based on the
36 most expensive costs of closure and postclosure maintenance
37 performed by a third party, the county or city may, to effect cost
38 savings, employ county or city employees or employ persons under
39 contract to actually perform closure operations or postclosure
40 maintenance operations.

1 *SEC. 358. Section 43501.5 of the Public Resources Code is*
2 *amended to read:*

3 43501.5. (a) In addition to the requirements of this article, and
4 Section 21780 of Title 27 of the California Code of Regulations,
5 a person who is required to file a final closure plan shall also file
6 with the enforcement agency a Labor Transition Plan that includes
7 all of the following:

8 (1) Provisions that ensure, subject to any requirements already
9 established pursuant to a collective bargaining agreement,
10 preferential reemployment and transfer rights of displaced
11 employees to comparable available employment with the same
12 employer for a period of no less than one year following the closure
13 of the solid waste facility.

14 (2) Provisions to provide displaced employees assistance in
15 finding comparable employment with other employers.

16 (3) Provisions to ensure compliance with all applicable
17 provisions of Chapter 4 (commencing with Section 1400) of Part
18 of 4 of Division 2 of the Labor Code.

19 (b) When submitting the final closure plan, the operator shall
20 submit, in addition to the requirements of subdivision (a), a
21 certification to the ~~board~~ *Department of Toxics and Waste*
22 *Management* and the enforcement agency that the provisions
23 described in paragraphs (1) to (3), inclusive, of subdivision (a),
24 will be implemented, subject to any requirements already
25 established under a collective bargaining agreement.

26 (c) For the purposes of this section, “comparable employment”
27 means the same or a substantially similar job classification at equal
28 or greater wage and benefit levels in the same geographic region
29 of the state.

30 *SEC. 359. Section 43502 of the Public Resources Code is*
31 *amended to read:*

32 43502. All documentation relating to the preparation of the
33 closure and postclosure maintenance costs shall be retained by the
34 owner or operator and shall be available for inspection by the ~~board~~
35 *Department of Toxics and Waste Management* or the enforcement
36 agency at reasonable times.

37 *SEC. 360. Section 43504 of the Public Resources Code is*
38 *amended to read:*

39 43504. Pursuant to the procedural requirements in Chapter 3
40 (commencing with Section 44001), the enforcement agency or the

1 ~~board~~ Department of Toxics and Waste Management may suspend
2 or revoke a permit if the applicant fails within a reasonable period
3 of time to submit an acceptable plan for the closure of the landfill
4 and an acceptable plan for postclosure maintenance of the landfill.

5 SEC. 361. Section 43505 of the Public Resources Code is
6 amended to read:

7 43505. The closure plan and the postclosure maintenance plan
8 may be revised only upon the filing of a written application therefor
9 by the owner or operator, and the approval, or amendment and
10 approval, by the ~~board~~ Department of Toxics and Waste
11 Management.

12 SEC. 362. Section 43506 of the Public Resources Code is
13 amended to read:

14 43506. (a) After receiving a complete closure plan and
15 postclosure maintenance plan, the regional water board shall
16 approve or disapprove the plans pursuant to the authority and time
17 schedules specified in Division 7 (commencing with Section
18 13000) of the Water Code. The ~~board~~ Department of Toxics and
19 Waste Management shall incorporate the action of the regional
20 water board and shall only approve plans that include an acceptable
21 mechanism for providing the necessary funds to implement the
22 plans.

23 (b) In reviewing closure plans and postclosure maintenance
24 plans pursuant to this section, the regional water boards shall
25 review and take action on those portions of the plans which are
26 related to the protection of the waters of the state and the ~~board~~
27 Department of Toxics and Waste Management shall review and
28 take action on the remaining portions of the plans.

29 SEC. 363. Section 43507 of the Public Resources Code is
30 amended to read:

31 43507. The owner and operator shall, regardless of any changes
32 occurring during the continued operation of the landfill, close and
33 maintain the landfill during postclosure in accordance with the
34 most recent closure plan and the most recent postclosure
35 maintenance plan approved by the ~~board~~ Department of Toxics
36 and Waste Management pursuant to this article. Upon receipt of
37 the final shipment of solid waste, the most recent closure and
38 postclosure maintenance plan shall become the governing
39 document for the disposal site.

1 *SEC. 364. Section 43508 of the Public Resources Code is*
2 *amended to read:*

3 43508. The ~~board~~ *Department of Toxics and Waste*
4 *Management* or the enforcement agency may recover any costs
5 incurred in meeting the requirements of this article by charging a
6 fee pursuant to Chapter 8 (commencing with Section 41900) of
7 Part 2.

8 *SEC. 365. Section 43509 of the Public Resources Code is*
9 *amended to read:*

10 43509. (a) The ~~board~~ *Department of Toxics and Waste*
11 *Management*, in consultation with the state water board and in
12 compliance with Section 40055, shall adopt and amend regulations
13 specifying closure plan and postclosure maintenance plan adoption
14 procedures and uniform standards to implement Section 43601.
15 Regulations adopted pursuant to this section shall not include
16 standards and requirements contained in regulations adopted by
17 the State Water Resources Control Board pursuant to Division 7
18 (commencing with Section 13000) of the Water Code. The
19 regulations shall also require solid waste landfill owners or
20 operators to calculate, and periodically revise, cost estimates for
21 closure and for postclosure maintenance, for as long as the solid
22 waste could have an adverse effect on the quality of the waters of
23 the state, but not less than 30 years after closure unless all wastes
24 are removed in accordance with federal and state law.

25 (b) The ~~board~~ *Department of Toxics and Waste Management*
26 may adopt regulations that authorize the adoption of both
27 preliminary and final closure and postclosure maintenance plans.
28 Regulations for preliminary closure and postclosure maintenance
29 plans may require less specificity and engineering detail than final
30 closure and postclosure maintenance plans, and these regulations
31 shall apply only in those cases in which there is reasonable
32 certainty that the solid waste landfill will not close for at least one
33 year following approval of the plans. Preliminary closure and
34 postclosure maintenance plans shall provide sufficient detail to
35 enable the owner or operator and the ~~board~~ *Department of Toxics*
36 *and Waste Management* to accurately estimate the costs for closure
37 and postclosure maintenance.

38 (c) If a solid waste landfill owner or operator has submitted a
39 closure plan and postclosure maintenance plan which satisfies the
40 requirements of this chapter, and which has been approved by the

1 local enforcement agency, the ~~board~~ *Department of Toxics and*
2 *Waste Management*, and the appropriate regional water board, the
3 plans shall be deemed to have satisfactorily complied with all state
4 requirements for the adoption of a closure plan and postclosure
5 maintenance plan.

6 SEC. 366. *Section 43510 of the Public Resources Code is*
7 *amended to read:*

8 43510. (a) The regulations adopted by the ~~board~~ *Department*
9 *of Toxics and Waste Management* pursuant to this article and
10 Article 4 (commencing with Section 43600) shall not duplicate or
11 conflict with the regulations imposing closure and postclosure
12 maintenance requirements adopted by the state water board which
13 are found in Chapter 15 (commencing with Section 2510) of
14 Chapter 3 of Title 23 of the California Code of Regulations.

15 (b) On or before June 30, 1995, the ~~board~~ *California Integrated*
16 *Waste Management Board* and the state water board shall revise
17 the regulations adopted pursuant to this article and Article 4
18 (commencing with Section 43600) of this chapter and Section
19 13172 of the Water Code for the purpose of consolidating the
20 requirements of the ~~board~~ *California Integrated Waste*
21 *Management Board* and the state water board for closure and
22 postclosure maintenance into one set of regulations.

23 SEC. 367. *Section 43600 of the Public Resources Code is*
24 *amended to read:*

25 43600. (a) Except as otherwise provided in subdivision (b),
26 any person owning or operating a solid waste landfill, as defined
27 in Section 40195.1, shall, with the closure plan and postclosure
28 maintenance plan submitted pursuant to subdivision (b) of Section
29 43501, submit to the ~~board~~ *Department of Toxics and Waste*
30 *Management* evidence of financial ability to provide for the cost
31 of closure and postclosure maintenance, in an amount that is equal
32 to the estimated cost of closure and 15 years of postclosure
33 maintenance, contained in the closure plan and the postclosure
34 maintenance plan submitted.

35 (b) On and after the effective date of the federal regulations set
36 forth in Subpart G (commencing with Section 258.70) of Part 258
37 of Title 40 of the Code of Federal Regulations, any person owning
38 or operating a solid waste landfill, shall, with the closure plan and
39 postclosure maintenance plan submitted pursuant to subdivision
40 (b) of Section 43501, submit to the ~~board~~ *Department of Toxics*

1 *and Waste Management* evidence of financial ability to provide
2 for closure and postclosure maintenance, in an amount that is equal
3 to the estimated cost of closure and 30 years of postclosure
4 maintenance, contained in the closure plan and the postclosure
5 maintenance plan submitted.

6 *SEC. 368. Section 43601 of the Public Resources Code is*
7 *amended to read:*

8 43601. (a) The evidence of financial ability shall be sufficient
9 to meet the closure and postclosure maintenance costs when
10 needed.

11 (b) The owner or operator of a solid waste landfill shall provide
12 evidence of financial ability through the use of any of the
13 mechanisms set forth in Part 258 (commencing with Section 258.1)
14 of Title 40 of the Code of Federal Regulations or through the use
15 of any other mechanisms approved by the ~~board~~ *Department of*
16 *Toxics and Waste Management*. However, the ~~board~~ *Department*
17 *of Toxics and Waste Management* may adopt regulations that
18 reasonably condition the use of one or more of those mechanisms
19 to ensure adequate protection of public health and safety and the
20 environment, but shall not exclude the use of any mechanism
21 permitted under federal law. In addition, the evidence of financial
22 ability submitted pursuant to Section 43600 shall provide that
23 funds shall be available to the regional water boards upon the
24 issuance of any order under Chapter 5 (commencing with Section
25 13300) of Division 7 of the Water Code to implement closure and
26 postclosure activities.

27 (c) The state water board or the appropriate regional water board
28 shall have access to the financial assurance funds for closure and
29 postclosure activities, and to financial assurance funds for
30 corrective action, as necessary, to address water quality problems,
31 if the owner or operator of the solid waste landfill has failed to
32 implement the required closure and postclosure activities or
33 corrective action activities.

34 (d) The owner or operator may request disbursement for
35 expenditures to conduct closure, postclosure maintenance, or
36 corrective actions from the financial assurance mechanism
37 established for that activity. Requests for disbursement shall be
38 granted by the ~~board~~ *Department of Toxics and Waste Management*
39 only if sufficient funds are remaining in the financial assurance

1 mechanism to cover the remaining approved total costs of closure,
2 postclosure maintenance, or corrective actions, as appropriate.

3 (e) If the evidence of financial ability for closure, postclosure,
4 or corrective action is demonstrated by use of insurance, the ~~board~~
5 *Department of Toxics and Waste Management* may approve the
6 insurance mechanism if it is in compliance with either paragraph
7 (1) or (2) as follows:

8 (1) The issuer of the insurance policy is either:

9 (A) Licensed by the Department of Insurance to transact the
10 business of insurance in the State of California as an admitted
11 carrier.

12 (B) Eligible to provide insurance as an excess and surplus lines
13 insurer in California through a surplus lines broker currently
14 licensed under the regulations of the Department of Insurance and
15 upon the terms and conditions prescribed by the Department of
16 Insurance.

17 (2) If the insurance carrier is established by a solid waste facility
18 operator to meet the financial assurance obligations of that operator,
19 insurance may be approved by the ~~board~~ *Department of Toxics*
20 *and Waste Management* that meets all of the following
21 requirements:

22 (A) The insurance mechanism is in full compliance with the
23 requirements for insurance that are specified in subdivision (d) of
24 Section 258.74 of Title 40 of the Code of Federal Regulations.

25 (B) The insurance carrier is an insurer domiciled in the United
26 States and licensed in its state of domicile to write that insurance.

27 (C) The insurance carrier only provides financial assurance to
28 the operator that has established the insurance carrier as a form of
29 self-insurance and does not engage in the business of marketing,
30 brokering, or providing insurance coverage to other parties.

31 (D) The insurance carrier shall maintain a rating of A- or better
32 by A.M. Best, or other equivalent rating by any other agency
33 acceptable to the ~~board~~ *Department of Toxics and Waste*
34 *Management*.

35 (E) If requested by the ~~board~~ *Department of Toxics and Waste*
36 *Management*, an independent financial audit report evaluating the
37 assets and liabilities of the insurance carrier and confirming
38 compliance with the statutory and regulatory requirements of the
39 state of domicile and an independent actuarial opinion on the
40 independence and financial soundness of the insurance carrier by

1 an actuary in good standing with the Casualty Actuarial Society
2 or the American Academy of Actuaries regarding the adequacy of
3 the loss reserves maintained by the insurance carrier shall be
4 submitted to the ~~board~~ *Department of Toxics and Waste*
5 *Management* upon application and annually thereafter.

6 (f) A solid waste facility operator using or proposing to use an
7 insurance company to demonstrate financial assurance may be
8 required by the ~~board~~ *Department of Toxics and Waste*
9 *Management* to pay a fee for the actual and necessary cost of
10 reviewing information submitted by the operator pursuant to
11 paragraph (2) of subdivision (e) up to an amount not to exceed ten
12 thousand dollars (\$10,000), unless a higher amount is mutually
13 agreed to by the operator and the ~~board~~ *Department of Toxics and*
14 *Waste Management*.

15 (g) The funds collected pursuant to subdivision (f) shall be
16 deposited in the Integrated Waste Management Account and shall
17 be available, upon appropriation by the Legislature, for expenditure
18 by the ~~board~~ *Department of Toxics and Waste Management* to
19 fund the review specified in subdivision (f).

20 *SEC. 369. Section 43601.5 of the Public Resources Code is*
21 *amended to read:*

22 43601.5. (a) On or before March 1, 1994, the ~~board~~ *California*
23 *Integrated Waste Management Board* shall review and revise
24 regulations affecting solid waste landfill closure and postclosure
25 financial assurances adopted in accordance with this article to
26 make the regulations consistent with the requirements established
27 pursuant to Subpart G (commencing with Section 258.1) of Part
28 258 of Subchapter I of Chapter 1 of Title 40 of the Code of Federal
29 Regulations, as amended on October 9, 1991.

30 (b) In reviewing and revising regulations pursuant to subdivision
31 (a), the ~~board~~ *Department of Toxics and Waste Management* shall,
32 consistent with this division, and with federal law and regulations,
33 endeavor to minimize the costs of compliance with those
34 regulations by the owners and operators of public solid waste
35 landfills and to provide flexible mechanisms for those owners and
36 operators to comply with closure and postclosure financial
37 assurance requirements, in order to ensure that adequate funding
38 will be available for programs and projects that are necessary to
39 comply with the diversion requirements of Section 41780.

1 SEC. 370. *Section 43603 of the Public Resources Code is*
2 *amended to read:*

3 43603. The ~~board~~ *Department of Toxics and Waste*
4 *Management* shall not require an owner or operator of a disposal
5 site to revise or amend a closure plan submitted pursuant to this
6 section or former Section 66796.22 of the Government Code after
7 closure of the landfill in order to reflect subsequent changes in any
8 standards and regulations adopted by the ~~board~~ *Department of*
9 *Toxics and Waste Management*.

10 SEC. 371. *Section 43606 of the Public Resources Code is*
11 *amended to read:*

12 43606. (a) Except for financial arrangements approved by the
13 ~~board~~ *Department of Toxics and Waste Management* pursuant to
14 this article, no indemnification, hold harmless, or similar agreement
15 or conveyance is effective to transfer from the owner or operator
16 of a disposal site to any other person any obligations imposed on
17 the owner or operator under this article.

18 (b) Notwithstanding subdivision (a), nothing in this section
19 prohibits any agreement between the owner and the operator
20 regarding their respective obligations for closure and postclosure
21 maintenance of a disposal site, and nothing in this section prohibits
22 a cause of action that an owner or operator has or would have
23 against the other party by reason of that agreement.

24 SEC. 372. *Section 44000.5 of the Public Resources Code is*
25 *amended to read:*

26 44000.5. (a) With respect only to solid waste disposed of in
27 this state, a person shall not dispose of solid waste, cause solid
28 waste to be disposed of, arrange for the disposal of solid waste,
29 transport solid waste for purposes of disposal, or accept solid waste
30 for disposal, except at a solid waste disposal facility for which a
31 solid waste facilities permit has been issued pursuant to this chapter
32 or as otherwise authorized pursuant to this division and the
33 regulations adopted by the ~~board~~ *Department of Toxics and Waste*
34 *Management* pursuant to this division.

35 (b) A violation of this section is an unlawful act.

36 SEC. 373. *Section 44001 of the Public Resources Code is*
37 *amended to read:*

38 44001. Any person who proposes to become an operator of a
39 solid waste facility shall file with the enforcement agency having
40 jurisdiction over the facility, or the ~~board~~ *Department of Toxics*

1 *and Waste Management* if there is no designated and certified
2 enforcement agency, an application for a solid waste facilities
3 permit at least 150 days in advance of the date on which it is
4 desired to commence operation, unless the enforcement agency
5 issues a permit to the applicant to commence operations prior to
6 that time.

7 *SEC. 374. Section 44002.1 of the Public Resources Code is*
8 *amended to read:*

9 44002.1. (a) The Legislature finds and declares all of the
10 following:

11 (1) New trends in solid waste handling and collection practices,
12 such as single-stream collection of recyclable materials, coupled
13 with the regulations adopted by the ~~board~~ *Department of Toxics*
14 *and Waste Management* that govern solid waste transfer or
15 processing stations and composting facilities, have resulted in the
16 failure of a substantial number of persons carrying out previously
17 unregulated recycling, solid waste handling, and composting
18 activities, to comply with existing law.

19 (2) As cities and counties undertake greater efforts to increase
20 the diversion of solid waste from landfills, the ~~board~~ *Department*
21 *of Toxics and Waste Management* anticipates that many new
22 transfer and processing stations and composting facilities will
23 commence operation in California within the next two to five years.

24 (3) To address these trends, it is necessary to provide a
25 temporary permitting scheme to enable the operators of existing
26 solid waste facilities to obtain temporary permits more quickly
27 than is possible under existing law, in order to protect the public
28 health and safety and the environment.

29 (b) The ~~board~~ *Department of Toxics and Waste Management*
30 shall adopt emergency regulations pursuant to subdivision (d) to
31 authorize an enforcement agency, upon the ~~board's~~ *Department*
32 *of Toxics and Waste Management's* concurrence, to issue a
33 temporary solid waste facilities permit to a person operating a solid
34 waste transfer or processing station or a composting facility, that,
35 as of January 1, 2008, is required under this division and the
36 regulations adopted by the ~~board~~ *Department of Toxics and Waste*
37 *Management* pursuant to this division to obtain a solid waste
38 facilities permit, but for which a permit has not been obtained. The
39 regulations adopted by the ~~board~~ *Department of Toxics and Waste*
40 *Management* shall include all of the following requirements:

1 (1) That a person desiring to obtain a temporary solid waste
2 facilities permit submit a complete and correct application for the
3 permit to the enforcement agency having jurisdiction no later than
4 60 days from the effective date of the regulations.

5 (2) That the date by which a holder of a temporary solid waste
6 facilities permit shall obtain a permanent solid waste facilities
7 permit from the enforcement agency having jurisdiction, or cease
8 the activities for which a solid waste facilities permit is required,
9 be on or before June 30, 2010.

10 (3) That a facility covered under a temporary solid waste
11 facilities permit have been in operation on or before January 1,
12 2007.

13 (4) That the owner or operator of a facility covered under a
14 temporary solid waste facilities permit agree to allow the facility
15 to be inspected, at least monthly, by the enforcement agency.

16 (c) (1) An enforcement agency shall diligently notify the
17 operators of all facilities within its jurisdiction of the availability
18 of temporary solid waste facilities permits under the regulations
19 adopted pursuant to this section.

20 (2) ~~The board~~ *Department of Toxics and Waste Management*
21 shall expeditiously review and act on a proposed temporary solid
22 waste facilities permit submitted to it by an enforcement agency.
23 Upon the request of an enforcement agency, ~~the board~~ *Department*
24 *of Toxics and Waste Management* shall provide assistance to the
25 enforcement agency to expeditiously process applications for
26 temporary solid waste facilities permits.

27 (d) The regulations adopted by ~~the board~~ *Department of Toxics*
28 *and Waste Management* pursuant to this section shall be adopted
29 as emergency regulations and shall be considered by the Office of
30 Administrative Law as necessary for the immediate preservation
31 of the public peace, health and safety, or general welfare. The
32 ~~board~~ *California Integrated Waste Management Board* shall file
33 the emergency regulations with the Office of Administrative Law
34 at the earliest feasible date or March 1, 2008, whichever date is
35 earlier. Notwithstanding subdivision (e) of Section 11346.1 of the
36 Government Code, any emergency regulations adopted by the
37 ~~board~~ *California Integrated Waste Management Board or the*
38 *Department of Toxics and Waste Management*, pursuant to this
39 section shall remain in effect until July 1, 2010, and on that date
40 shall become inoperative.

1 (e) This section shall become inoperative on July 1, 2010, and,
2 as of January 1, 2011, is repealed, unless a later enacted statute
3 that is enacted before January 1, 2010, deletes or extends the dates
4 on which it becomes inoperative and is repealed.

5 *SEC. 375. Section 44003 of the Public Resources Code is*
6 *amended to read:*

7 44003. When the operator of the disposal site is not the disposal
8 site owner, the disposal site operator's application for a solid waste
9 facilities permit shall contain any information that the enforcement
10 agency or the ~~board~~ *Department of Toxics and Waste Management*
11 may require regarding the disposal site owner's interest in the real
12 property utilized as the disposal site.

13 *SEC. 376. Section 44004 of the Public Resources Code is*
14 *amended to read:*

15 44004. (a) An operator of a solid waste facility may not make
16 a significant change in the design or operation of the solid waste
17 facility that is not authorized by the existing permit, unless the
18 change is approved by the enforcement agency, the change
19 conforms with this division and all regulations adopted pursuant
20 to this division, and the terms and conditions of the solid waste
21 facilities permit are revised to reflect the change.

22 (b) If the operator wishes to change the design or operation of
23 the solid waste facility in a manner that is not authorized by the
24 existing permit, the operator shall file an application for revision
25 of the existing solid waste facilities permit with the enforcement
26 agency. The application shall be filed at least 180 days in advance
27 of the date when the proposed modification is to take place unless
28 the 180-day time period is waived by the enforcement agency.

29 (c) The enforcement agency shall review the application to
30 determine all of the following:

31 (1) Whether the change conforms with this division and all
32 regulations adopted pursuant to this division.

33 (2) Whether the change requires review pursuant to Division
34 13 (commencing with Section 21000).

35 (d) Within 60 days from the date of the receipt of the application
36 for a revised permit, the enforcement agency shall inform the
37 operator, and if the enforcement agency is a local enforcement
38 agency, also inform the ~~board~~ *Department of Toxics and Waste*
39 *Management*, of its determination to do any of the following:

40 (1) Allow the change without a revision to the permit.

(2) Disallow the change because it does not conform with the requirements of this division or the regulations adopted pursuant to this division.

(3) Require a revision of the solid waste facilities permit to allow the change.

(4) Require review under Division 13 (commencing with Section 21000) before a decision is made.

(e) The operator has 30 days within which to appeal the decision of the enforcement agency to the hearing panel, as authorized pursuant to Article 2 (commencing with Section 44305) of Chapter 4. The enforcement agency shall provide notice of a hearing held pursuant to this subdivision in the same manner as notice is provided pursuant to subdivision (h).

(f) Under circumstances that present an immediate danger to the public health and safety or to the environment, as determined by the enforcement agency, the 180-day filing period may be waived.

(g) (1) A permit revision is not required for the temporary suspension of activities at a solid waste facility if the suspension meets either of the following criteria:

(A) The suspension is for the maintenance or minor modifications to a solid waste unit or to solid waste management equipment.

(B) The suspension is for temporarily ceasing the receipt of solid waste at a solid waste management facility and the owner or operator is in compliance with all other applicable terms and conditions of the solid waste facilities permit and minimum standards adopted by the ~~board~~ *Department of Toxics and Waste Management*.

(2) An owner or operator of a solid waste facility who temporarily suspends operations shall remain subject to the closure and postclosure maintenance requirements of this division and to all other requirements imposed by federal law pertaining to the operation of a solid waste facility.

(3) The enforcement agency may impose any reasonable conditions relating to the maintenance of the solid waste facility, environmental monitoring, and periodic reporting during the period of temporary suspension. The ~~board~~ *Department of Toxics and Waste Management* may also impose any reasonable conditions

1 determined to be necessary to ensure compliance with applicable
2 state standards.

3 (h) (1) (A) Before making its determination pursuant to
4 subdivision (d), the enforcement agency shall submit the proposed
5 determination to the ~~board~~ *Department of Toxics and Waste*
6 *Management* for comment and hold at least one public hearing on
7 the proposed determination. The enforcement agency shall give
8 notice of the hearing pursuant to Section 65091 of the Government
9 Code, except that the notice shall be provided to all owners of real
10 property within a distance other than 300 feet of the real property
11 that is the subject of the hearing, if specified in the regulations
12 adopted by the ~~board~~ *Department of Toxics and Waste Management*
13 pursuant to subdivision (i). The enforcement agency shall also
14 provide notice of the hearing to the ~~board~~ *Department of Toxics*
15 *and Waste Management* when it submits the proposed
16 determination to the ~~board~~ *Department of Toxics and Waste*
17 *Management*.

18 (B) The enforcement agency shall mail or deliver the notice
19 required pursuant to subparagraph (A) at least 10 days prior to the
20 date of the hearing to any person who has filed a written request
21 for the notice with a person designated by the enforcement agency
22 to receive these requests. The enforcement agency may charge a
23 fee to the requester in an amount that is reasonably related to the
24 costs of providing this service and the enforcement agency may
25 require each request to be annually renewed.

26 (C) The enforcement agency shall consider environmental justice
27 issues when preparing and distributing the notice to ensure that
28 the notice is concise and understandable for
29 limited-English-speaking populations.

30 (2) If the ~~board~~ *Department of Toxics and Waste Management*
31 comments pursuant to paragraph (1), the ~~board~~ *Department of*
32 *Toxics and Waste Management* shall specify whether the proposed
33 determination is consistent with the regulation adopted pursuant
34 to subdivision (i).

35 (i) (1) The ~~board~~ *Department of Toxics and Waste Management*
36 shall, to the extent resources are available, adopt regulations that
37 implement subdivision (h) and define the term “significant change
38 in the design or operation of the solid waste facility that is not
39 authorized by the existing permit.”

(2) While formulating and adopting the regulations required pursuant to paragraph (1), the ~~board~~ *Department of Toxics and Waste Management* shall consider recommendations of the Working Group on Environmental Justice and the advisory group made pursuant to Sections 71113 and 71114 and the report required pursuant to Section 71115.

SEC. 377. Section 44005 of the Public Resources Code is amended to read:

44005. (a) Any owner or operator of a solid waste facility who plans to encumber, sell, transfer, or convey the ownership or operations of a solid waste facility or disposal site to a new owner or operator, shall notify the enforcement agency and the ~~board~~ *Department of Toxics and Waste Management*, 45 days prior to the date of the anticipated transfer. The notification shall be in writing and shall include information as determined by the ~~board~~ *Department of Toxics and Waste Management*, including any financial assurances, if applicable.

(b) The enforcement agency and the ~~board~~ *Department of Toxics and Waste Management* shall review the notification documentation and any available records of enforcement actions taken against the proposed transferee, and shall determine, within 30 days of receipt, whether the facility will be operated in compliance with the terms and conditions of an approved permit and any other applicable requirements, including, but not limited to, the requirements of Division 13 (commencing with Section 21000). If the solid waste facility will not be operated in compliance with the terms and conditions of an approved permit, or any other applicable requirements of Division 13 (commencing with Section 21000), the new owner or operator shall be required to file an application for a revised or modified solid waste facilities permit.

(c) If the enforcement agency or the ~~board~~ *Department of Toxics and Waste Management* determines that the facility will be operated in compliance with the terms and conditions of the existing permit, the enforcement agency may change the name of the owner or operator on the permit.

SEC. 378. Section 44006 of the Public Resources Code is amended to read:

44006. (a) Each report or application filed under this article shall be submitted under oath or under penalty of perjury.

1 (b) Each report, notice, or application filed under this article
2 shall be submitted on a form approved by the ~~board~~ *Department*
3 *of Toxics and Waste Management*.

4 (c) Each application required to be filed under this article shall
5 be accompanied by a filing fee according to a fee schedule
6 established by the enforcement agency to reflect the cost of
7 processing the application and to recover costs incurred in meeting
8 the requirements of Article 3 (commencing with Section 43500)
9 and Article 4 (commencing with Section 43600) of Chapter 2. This
10 fee is in addition to the fees authorized by Chapter 8 (commencing
11 with Section 41900) of Part 2.

12 *SEC. 379. Section 44007 of the Public Resources Code is*
13 *amended to read:*

14 44007. The enforcement agency shall not issue or revise a solid
15 waste facilities permit unless it has, at least 65 days in advance,
16 provided the ~~board~~ *Department of Toxics and Waste Management*
17 and the applicant with a copy of the proposed permit, which shall
18 contain the terms and conditions the enforcement agency proposes
19 to establish.

20 *SEC. 380. Section 44008 of the Public Resources Code is*
21 *amended to read:*

22 44008. (a) A decision to issue or not issue the permit shall be
23 made by the enforcement agency within 120 days from the date
24 that the application is deemed complete pursuant to Chapter 4.5
25 (commencing with Section 65920) of Division 1 of Title 7 of the
26 Government Code, unless waived by the applicant.

27 (b) The enforcement agency may only issue the permit pursuant
28 to subdivision (a) if it finds that the proposed solid waste facilities
29 permit is consistent with this division and any regulations adopted
30 by the ~~board~~ *Department of Toxics and Waste Management*
31 pursuant to this division applicable to solid waste facilities.

32 *SEC. 381. Section 44009 of the Public Resources Code is*
33 *amended to read:*

34 44009. (a) (1) The ~~board~~ *Department of Toxics and Waste*
35 *Management* shall, in writing, concur or object to the issuance,
36 modification, or revision of any solid waste facilities permit within
37 60 days from the date of the ~~board's~~ *Department of Toxics and*
38 *Waste Management's* receipt of any proposed solid waste facilities
39 permit submitted under Section 44007 after consideration of the
40 issues in this section.

(2) If the ~~board~~ *Department of Toxics and Waste Management* determines that the permit is not consistent with the state minimum standards adopted pursuant to Section 43020, or is not consistent with Sections 43040, 43600, 44007, 44010, 44017, 44150, and 44152 or Division 31 (commencing with Section 50000), the ~~board~~ *Department of Toxics and Waste Management* shall object to provisions of the permit and shall submit those objections to the local enforcement agency for its consideration.

(3) If the ~~board~~ *Department of Toxics and Waste Management* fails to concur or object in writing within the 60-day period specified in paragraph (1), the ~~board~~ *Department of Toxics and Waste Management* shall be deemed to have concurred in the issuance of the permit as submitted to it.

(b) Notwithstanding subdivision (a), the ~~board~~ *Department of Toxics and Waste Management* is not required to concur in, or object to, and shall not be deemed to have concurred in, the issuance of a solid waste facilities permit for a disposal facility if the owner or operator is not in compliance with, as determined by the regional water board, an enforcement order issued pursuant to Chapter 5 (commencing with Section 13300) of Division 7 of the Water Code, or if all of the following conditions exist:

(1) Waste discharge requirements for the disposal facility issued by the applicable regional water board are pending review in a petition before the state water board.

(2) The petition for review of the waste discharge requirements includes a request for a stay of the waste discharge requirements.

(3) The state water board has not taken action on the stay request portion of the pending petition for review of waste discharge requirements.

(c) In objecting to the issuance, modification, or revision of any solid waste facilities permit pursuant to this section, the ~~board~~ *Department of Toxics and Waste Management* shall, based on substantial evidence in the record as to the matter before the ~~board~~ *Department of Toxics and Waste Management*, state its reasons for objecting. The ~~board~~ *Department of Toxics and Waste Management* shall not object to the issuance, modification, or revision of any solid waste facilities permit unless the ~~board~~ *Department of Toxics and Waste Management* finds that the permit is not consistent with the state minimum standards adopted pursuant to Section 43020, or is not consistent with Section 43040,

1 43600, 44007, 44010, 44017, 44150, or 44152 or Division 31
2 (commencing with Section 50000).

3 (d) Nothing in this section is intended to require that a solid
4 waste facility obtain a waste discharge permit from a regional
5 water board prior to obtaining a solid waste facilities permit.

6 *SEC. 382. Section 44010 of the Public Resources Code is*
7 *amended to read:*

8 44010. The enforcement agency shall issue the permit only if
9 it finds that the proposed solid waste facilities permit is consistent
10 with the standards adopted by the ~~board~~ *Department of Toxics and*
11 *Waste Management.*

12 *SEC. 383. Section 44014 of the Public Resources Code is*
13 *amended to read:*

14 44014. (a) Upon compliance with Sections 44007, 44008, and
15 44009, and after any necessary hearing, the local enforcement
16 agency shall issue, modify, or revise a solid waste facilities permit
17 if the ~~board~~ *Department of Toxics and Waste Management* has
18 concurred in that issuance, modification, or revision of the permit
19 pursuant to Section 44009.

20 (b) The permit shall contain all terms and conditions which the
21 enforcement agency determines to be appropriate for the operation
22 of the solid waste facility. The operator shall comply with all terms
23 and conditions of the permit.

24 (c) Within 15 days of issuing, modifying, or revising a solid
25 waste facilities permit, the enforcement agency shall transmit to
26 the permittee a copy of the solid waste facilities permit.

27 *SEC. 384. Section 44018 of the Public Resources Code is*
28 *amended to read:*

29 44018. The ~~board~~ *Department of Toxics and Waste*
30 *Management* shall establish, by regulation, a program to be
31 implemented by the ~~board~~ *Department of Toxics and Waste*
32 *Management* and by local enforcement agencies that provides for
33 the expedited review of permits issued pursuant to this article. The
34 program shall be designed to reduce unnecessary delay in the
35 issuance of these permits and to protect the public health and safety
36 and the environment.

37 *SEC. 385. Section 44100 of the Public Resources Code is*
38 *amended to read:*

39 44100. (a) The enforcement agency, in issuing or reviewing
40 a solid waste facilities permit or in connection with an action

1 relating to a solid waste facilities permit or as otherwise authorized
2 by this division, may investigate the operation of a solid waste
3 facility, a transfer or processing station, a disposal site, collection
4 or handling equipment, or a storage area for solid wastes.

5 (b) In the investigation, the enforcement agency may require a
6 person, who is, or proposes to become, an operator of a solid waste
7 facility, a transfer or processing station, a disposal site, collection
8 or handling equipment, or a storage area for solid wastes, or a
9 person that the enforcement agency believes may have information
10 concerning a suspected violation of this division, to furnish, under
11 penalty of perjury, any nonprivileged technical or monitoring
12 program or other reports that the enforcement agency may specify.

13 (c) If the owner of property upon which solid waste is unlawfully
14 stored, stockpiled, disposed, handled, or maintained refuses to
15 allow or provide the ~~board~~ *Department of Toxics and Waste*
16 *Management*, the enforcement agency, or a contractor of the ~~board~~
17 *Department of Toxics and Waste Management* or enforcement
18 agency with access to enter onto the property and perform all
19 necessary cleanup, abatement, or remedial work as authorized
20 pursuant to Section 45000 or 48020, the court may issue the ~~board~~
21 *Department of Toxics and Waste Management*, the enforcement
22 agency, or a contractor of the ~~board~~ *Department of Toxics and*
23 *Waste Management* or enforcement agency a warrant pursuant to
24 the procedure set forth in Title 13 (commencing with Section
25 1822.50) of Part 3 of the Code of Civil Procedure to permit
26 reasonable access to the property to perform that activity, if the
27 following conditions have been met:

28 (1) An administrative order requiring corrective action has been
29 issued or obtained pursuant to Section 45000 against the property
30 owner.

31 (2) The ~~board~~ *Department of Toxics and Waste Management*
32 or enforcement agency finds that there is a significant threat to
33 public health or the environment.

34 SEC. 386. *Section 44104 of the Public Resources Code is*
35 *amended to read:*

36 44104. (a) The ~~board~~ *Department of Toxics and Waste*
37 *Management* shall maintain an inventory of solid waste facilities
38 which violate state minimum standards. To the extent it is
39 practicable to do so, the ~~board~~ *Department of Toxics and Waste*
40 *Management* shall incorporate in this inventory existing

1 information collected in the course of previous surveys of this type
2 and similar information made available to the ~~board~~ *Department*
3 *of Toxics and Waste Management* by state and local agencies.

4 (b) Whenever a solid waste facility is proposed to be included
5 in the inventory, the ~~board~~ *Department of Toxics and Waste*
6 *Management* shall give notice thereof by certified mail to the
7 disposal site owner and the operator of the solid waste facility. If,
8 within 90 days of that notice, the violation has not been corrected,
9 the solid waste facility shall be included in the inventory. The
10 ~~board~~ *Department of Toxics and Waste Management* shall update
11 and publish the inventory twice annually.

12 *SEC. 387. Section 44152 of the Public Resources Code is*
13 *amended to read:*

14 44152. No enforcement agency shall issue or revise a permit
15 for a solid waste facility which exclusively uses transformation
16 until the ~~board~~ *Department of Toxics and Waste Management* has
17 concluded in writing that the proposed permit is consistent with
18 the state's minimum standards for solid waste facilities.

19 *SEC. 388. Section 44202 of the Public Resources Code is*
20 *amended to read:*

21 44202. (a) Upon receipt of a written request from any tribe
22 considering a proposal to construct each solid waste facility in that
23 tribe's Indian country within this state, the secretary shall convene
24 negotiations for purposes of reaching a cooperative agreement
25 pursuant to this article, which will define the respective rights,
26 duties, and obligations of the state and the tribe concerning the
27 approval, development, and operation of the facility. In convening
28 the negotiations, the secretary shall consult with the ~~California~~
29 ~~Integrated Waste Management Board~~ *Department of Toxics and*
30 *Waste Management*, the State Water Resources Control Board,
31 the appropriate California regional water quality control board,
32 the State Air Resources Board, and the appropriate air pollution
33 control district or air quality management district.

34 (b) This article does not apply to any facility located on Indian
35 country within the state if it meets all of the following
36 requirements:

37 (1) The facility is owned and operated solely by a tribe.

38 (2) All solid waste accepted by the facility is generated by that
39 particular tribe.

40 (3) Appropriate federal agencies have approved the facility.

1 SEC. 389. *Section 44203 of the Public Resources Code is*
2 *amended to read:*

3 44203. (a) The secretary may enter into any cooperative
4 agreement which meets the requirements of this article.

5 (b) Each cooperative agreement shall include, but shall not be
6 limited to, all requirements determined to be necessary to meet
7 the requirements of subdivision (e) to do all of the following:

8 (1) Protect water quality, as determined by the State Water
9 Resources Control Board or the appropriate California regional
10 water quality control board.

11 (2) Protect air quality, as determined by the State Air Resources
12 Board or the appropriate air pollution control officer.

13 (3) Provide for proper management of solid wastes, as
14 determined necessary by the ~~California Integrated Waste~~
15 ~~Management Board~~ *Department of Toxics and Waste Management*.

16 (4) In making these determinations, the state agencies shall
17 consider any applicable federal environmental and public health
18 and safety laws.

19 (c) A decision by the secretary whether to enter into a
20 cooperative agreement shall be based on a good faith determination
21 concerning whether a proposed cooperative agreement meets the
22 requirements of this article. The secretary shall take this action
23 within 130 days of a written request by the tribe that the secretary
24 approve a draft cooperative agreement. At least 60 days prior to
25 determining whether to enter into a cooperative agreement, the
26 secretary shall provide notice, and make available for public review
27 and comment, drafts of his or her proposed action and drafts of
28 the findings and determinations that are required by this section.
29 The secretary shall hold a public hearing in the affected area on
30 the proposed action within the time period for taking that action,
31 as specified in this section. Within 10 days after the close of the
32 public review and comment period, the agencies shall complete
33 the determinations required by this section and the secretary shall
34 issue a final decision.

35 (d) The findings and determinations of the secretary and relevant
36 agencies made pursuant to this section shall explain material
37 differences between state laws and regulations and the proposed
38 tribal or federal functionally equivalent provisions. The findings
39 and determinations do not need to explain each difference between
40 the state and tribal or federal requirements as long as they identify

1 and evaluate whether the material differences meet the
2 requirements of this article, including, but not limited to, providing
3 at least as much protection for public health and safety and the
4 environment as would the state requirements.

5 (e) Any cooperative agreement executed pursuant to this article
6 shall provide for regulation of the solid waste facility through
7 inclusion in the agreement of design, permitting, construction,
8 siting, operation, monitoring, inspection, closure, postclosure,
9 liability, enforcement, and other regulatory provisions applicable
10 to a solid waste facility, or which relate to any environmental
11 consequences that may be caused by facility construction or
12 operation, that are functionally equivalent to all of the following:

13 (1) Article 4 (commencing with Section 13260) of Chapter 4
14 of, Chapter 5 (commencing with Section 13300) of, and Chapter
15 5.5 (commencing with Section 13370) of, Division 7 of the Water
16 Code.

17 (2) Chapter 3 (commencing with Section 41700) of, Chapter 4
18 (commencing with Section 42300) of, and Chapter 5 (commencing
19 with Section 42700) of, Part 4 of, and Part 6 (commencing with
20 Section 44300) of, Division 26 of the Health and Safety Code.

21 (3) This division.

22 (4) All regulations adopted pursuant to the statutes specified in
23 this section.

24 (5) Any other provision of state environmental, public health,
25 and safety laws and regulations germane to the solid waste facility
26 proposed by the tribe.

27 (f) The tribal organizational structures or other means of
28 implementing the requirements specified in subdivision (e) are not
29 required to be the same as the state organizational structures or
30 means of implementing its system of regulation.

31 (g) Neither the approval of any cooperative agreement nor
32 amendments to the agreement, nor any determination of sufficiency
33 provided in Section 44205, shall constitute a “project” as defined
34 in Section 21065 and shall not be subject to review pursuant to the
35 California Environmental Quality Act (Division 13 (commencing
36 with Section 21000)).

37 (h) Each cooperative agreement shall provide for the
38 incorporation of the standards and requirements germane to the
39 protection of the environment, public health, and safety listed in
40 subdivision (e), as enacted, or as those provisions may be amended

1 after January 1, 1992, or after the effective date of any cooperative
2 agreement, if those standards and requirements meet both of the
3 following requirements:

4 (1) The standards and requirements do not discriminate against
5 a tribe which has executed a cooperative agreement, or a lessee of
6 the tribe, and are applicable to, or not more stringent than, other
7 rules applicable to other similar or analogous facilities or operations
8 outside Indian country.

9 (2) Adequate notice and opportunity for comment on the
10 incorporation of new and amended standards or requirements are
11 provided to the tribe, facility owner, and operator to facilitate any
12 physical or operational changes in the facility in accordance with
13 state law.

14 *SEC. 390. Section 44309 of the Public Resources Code is*
15 *amended to read:*

16 44309. All hearings *shall be* conducted by the ~~board~~
17 *Department of Toxics and Waste Management* acting as the
18 enforcement agency pursuant to Section 43205 ~~shall be conducted~~
19 ~~by a hearing panel of three board members appointed by the~~
20 ~~chairperson of the board.~~

21 *SEC. 391. Section 44820 of the Public Resources Code is*
22 *amended to read:*

23 44820. (a) Except as provided in subdivision (c), the ~~board~~
24 *Department of Toxics and Waste Management* shall adopt, by
25 regulation, a permitting, inspection, and enforcement program for
26 the disposal of asbestos containing waste, as specified in Section
27 25143.7 of the Health and Safety Code, at any solid waste facility
28 or disposal site subject to regulation pursuant to this part. The
29 program may include, but is not limited to, standards and
30 certification requirements for local enforcement agencies, pursuant
31 to which the ~~board~~ *Department of Toxics and Waste Management*
32 may delegate authority for the regulation of asbestos containing
33 waste to local enforcement agencies.

34 (b) On or before March 1, 1995, or the earliest feasible date
35 thereafter, the ~~board~~ *California Integrated Waste Management*
36 *Board* and the Department of ~~Toxic Substances Control~~ *Toxics*
37 *and Waste Management* shall enter into a memorandum of
38 understanding that defines the enforcement responsibilities of each
39 agency for the disposal of asbestos containing waste at any solid
40 waste disposal facility or disposal site subject to regulation pursuant

1 to this part. The memorandum of understanding shall be
2 periodically updated to be consistent with each agency's
3 responsibilities pursuant to this section and Chapter 6.5
4 (commencing with Section 25100) of Division 30 of the Health
5 and Safety Code.

6 (c) Until the board has adopted regulations pursuant to
7 subdivision (a), the Department of ~~Toxic Substances Control~~ *Toxics*
8 *and Waste Management* shall regulate asbestos containing waste
9 at a solid waste facility or disposal site.

10 (d) Any regulations adopted pursuant to this section shall be
11 deemed emergency regulations and shall be adopted in accordance
12 with the Administrative Procedures Act (Chapter 3.5 (commencing
13 with Section 11340) of Division 3 of Title 2 of the Government
14 Code.) The adoption of these regulations shall be deemed to be
15 necessary for the immediate preservation of the public peace,
16 health, safety, or general welfare.

17 *SEC. 392. Section 45000 of the Public Resources Code is*
18 *amended to read:*

19 45000. (a) Except as provided in subdivision (b), the
20 enforcement agency or the ~~board~~ *Department of Toxics and Waste*
21 *Management* may issue an administrative order requiring the owner
22 or operator of a solid waste facility or disposal site or a person in
23 violation of Section 44000.5, to take corrective action as necessary
24 to abate a nuisance, or to protect human health and safety or the
25 environment. If both the ~~board~~ *Department of Toxics and Waste*
26 *Management* and the enforcement agency issue an administrative
27 order regarding the same facility, disposal site, or person, the order
28 issued by the ~~board~~ *Department of Toxics and Waste Management*
29 shall prevail if there is a conflict between the orders.

30 (b) An administrative order shall not be issued for a minor
31 violation that is corrected immediately in the presence of the
32 inspector. Immediate compliance in that manner shall be noted in
33 the inspection report.

34 (c) The enforcement agency or the ~~board~~ *Department of Toxics*
35 *and Waste Management* may contract for corrective action after
36 an order issued pursuant to subdivision (a) becomes final and the
37 owner or operator fails to comply with the order by the date
38 specified in the order.

39 (d) If an enforcement agency or the ~~board~~ *Department of Toxics*
40 *and Waste Management* expends any funds pursuant to subdivision

(b), the owner or operator of the solid waste facility or disposal site or a person in violation of Section 44000.5 shall reimburse the enforcement agency or the ~~board~~ *Department of Toxics and Waste Management* for the amount expended, including, but not limited to, a reasonable amount for contract administration, and an amount equal to the interest that would have been earned on the expended funds. The amount expended shall be recoverable in a civil action by the Attorney General, upon request of the local enforcement agency or the ~~board~~ *Department of Toxics and Waste Management*.

(e) A contract for corrective action entered into by the ~~board~~ *Department of Toxics and Waste Management* is exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

(f) A corrective action shall incorporate by reference applicable waste discharge requirements issued by the state water board or a regional water board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of, and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of, the Water Code, and state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code, existing at the time of the corrective action or proposed corrective action.

SEC. 393. Section 45002 of the Public Resources Code is amended to read:

45002. (a) Except as provided in subdivision (b), an order issued pursuant to this part or Part 4 (commencing with Section 43000) shall provide the person subject to that order with a notice of that person's right to appeal pursuant to Part 4 (commencing with Section 43000) and Part 6 (commencing with Section 45030).

(b) The recipient of a notice to comply issued pursuant to Section 45003 may request that a hearing be conducted in accordance with Section 44307, but only with respect to an action taken by an enforcement agency of the ~~board~~ *Department of Toxics and Waste Management* that arises from a minor violation that the owner or operator fails to correct or fails to certify, in a timely manner, as having been corrected.

SEC. 394. Section 45003 of the Public Resources Code is amended to read:

45003. (a) (1) An authorized representative of the enforcement agency or ~~board~~ *Department of Toxics and Waste Management*

1 who, in the course of conducting an inspection, detects a minor
2 violation, shall take an enforcement action as to the minor violation
3 only in accordance with this section.

4 (2) In a proceeding concerning an enforcement action taken
5 pursuant to this section, there shall be a rebuttable presumption
6 upholding the determination made by the enforcement agency or
7 ~~board~~ *Department of Toxics and Waste Management* regarding
8 whether the violation is a minor violation.

9 (b) A notice to comply shall be the only means by which an
10 enforcement agency or ~~board~~ *Department of Toxics and Waste*
11 *Management* may cite a minor violation, unless the person cited
12 fails to correct the violation or fails to submit the certification of
13 correction within the time period prescribed in the notice, in which
14 case the enforcement agency or ~~board~~ *Department of Toxics and*
15 *Waste Management* may take any enforcement action, including
16 imposing a penalty, as authorized by this part.

17 (c) (1) The enforcement agency or the ~~board~~ *Department of*
18 *Toxics and Waste Management* shall commence an enforcement
19 action under this section by serving a notice to comply on the
20 owner or operator of the solid waste facility or disposal site at
21 which a violation has occurred, specifying the violation and the
22 manner in which the violation may be corrected.

23 (2) A person who receives a notice to comply detailing a minor
24 violation shall have not more than 30 days from the date of the
25 notice to comply in which to correct any violation cited in the
26 notice to comply. Within five working days of correcting the
27 violation, the person cited or an authorized representative shall
28 sign the notice to comply, certifying that any violation has been
29 corrected, and return the notice to the enforcement agency or ~~board~~
30 *Department of Toxics and Waste Management*, whichever issued
31 the notice to comply.

32 (3) A false certification that a violation has been corrected is
33 punishable as a misdemeanor.

34 (4) The effective date of the certification that a violation has
35 been corrected shall be one of the following dates, whichever
36 occurs first:

37 (A) The date the certification is received by the enforcement
38 agency or the ~~board~~ *Department of Toxics and Waste Management*,
39 whichever issued the notice to comply, including receipt of an
40 electronic or facsimile version of the certification.

1 (B) The date the certification is postmarked by the United States
2 Postal Service.

3 (C) The date the certification is accepted for delivery by a
4 national express delivery service as evidenced by a receipt.

5 (d) If a notice to comply is issued, a single notice to comply
6 shall be issued for all minor violations noted during the inspection,
7 and the notice to comply shall list all of the minor violations and
8 the manner in which each of the minor violations may be brought
9 into compliance.

10 (e) If a person who receives a notice to comply pursuant to
11 subdivision (c) disagrees with one or more of the alleged violations
12 listed on the notice to comply, the person shall provide the
13 enforcement agency or ~~board~~ *Department of Toxics and Waste*
14 *Management* that issued the notice to comply a written notice of
15 disagreement specifying the allegations with which the person
16 disagrees along with the returned signed notice to comply,
17 certifying that all of the undisputed violations have been corrected.
18 If the person disagrees with all of the alleged violations, the written
19 notice of disagreement shall be returned in lieu of the signed
20 certification of correction within 30 days of the date of issuance
21 of the notice to comply. If the issuing agency takes administrative
22 enforcement action on the basis of the disputed violation, that
23 action may be appealed in the same manner as any other alleged
24 violation under Section 44307.

25 (f) This section does not do any of the following:

26 (1) Prevent a reinspection to ensure compliance with this
27 division or to ensure that minor violations cited in a notice to
28 comply have been corrected and that the solid waste facility or
29 disposal site is in compliance with this division.

30 (2) Prevent the enforcement agency or ~~board~~ *Department of*
31 *Toxics and Waste Management* from requiring a person to submit
32 necessary documentation needed to support the person's claim of
33 compliance pursuant to subdivision (c).

34 (3) Restrict the power of a city attorney, district attorney, county
35 counsel, or the Attorney General to bring, in the name of the people
36 of California, any criminal proceeding otherwise authorized by
37 law.

38 (4) Prevent the enforcement agency or ~~board~~ *Department of*
39 *Toxics and Waste Management* from cooperating with, or
40 participating in, a proceeding specified in paragraph (3).

1 *SEC. 395. Section 45005 of the Public Resources Code is*
2 *amended to read:*

3 45005. An enforcement agency or the ~~board~~ *Department of*
4 *Toxics and Waste Management* may issue a cease and desist order
5 to any of the following:

6 (a) A person who is operating, has operated, or proposes to
7 operate a solid waste facility or operates a disposal site in an
8 unauthorized manner, or who is disposing of solid waste in any of
9 the following manners:

10 (1) In violation of a solid waste facilities permit or in violation
11 of this division, or any regulation adopted pursuant to this division.

12 (2) Without a solid waste facilities permit.

13 (3) In a manner that causes or threatens to cause a condition of
14 hazard, pollution, or nuisance.

15 (b) A person who has violated, is violating, or proposes to
16 violate Section 44000.5.

17 *SEC. 396. Section 45010 of the Public Resources Code is*
18 *amended to read:*

19 45010. (a) The ~~board~~ *Department of Toxics and Waste*
20 *Management* and enforcement agencies shall impose civil penalties
21 on the operators of solid waste facilities in a judicious manner and
22 shall impose those penalties only after all reasonable efforts
23 pursuant to Section 45010.2 have been made by enforcement
24 agencies to provide proper notice of violations to alleged violators
25 as well as a reasonable opportunity to bring solid waste facilities
26 and disposal sites into compliance with this division.

27 (b) An enforcement agency shall not deposit funds collected
28 through the imposition of civil penalties pursuant to this article in
29 the General Fund of the local enforcement agency, but instead
30 shall deposit those funds in a segregated account and use those
31 funds exclusively for enhancing solid waste enforcement within
32 the local enforcement agency's jurisdiction, including, but not
33 limited to, all of the following:

34 (1) Increasing enforcement programs.

35 (2) Expanding the agency's enforcement capabilities.

36 (3) Bringing solid waste facilities into compliance with this
37 division.

38 (4) Remediating illegal or abandoned solid waste disposal sites.

39 (c) Civil penalties paid to the ~~board~~ *Department of Toxics and*
40 *Waste Management* pursuant to this article shall be deposited in

1 the Enforcement Penalty Account, which is hereby established in
2 the Solid Waste Disposal Site Cleanup Trust Fund created pursuant
3 to Section 48027. Notwithstanding subdivision (b) of Section
4 48027, the moneys in the Enforcement Penalty Account may be
5 expended by the ~~board~~ *Department of Toxics and Waste*
6 *Management*, upon appropriation by the Legislature, to enforce
7 and implement this division.

8 *SEC. 397. Section 45010.1 of the Public Resources Code is*
9 *amended to read:*

10 45010.1. (a) The ~~board~~ *Department of Toxics and Waste*
11 *Management* or an enforcement agency may issue an order
12 imposing a civil penalty of not more than five thousand dollars
13 (\$5,000) for each violation, for each day that the violation
14 continues, to a person who violates the terms or conditions of a
15 solid waste facilities permit or who violates a requirement of this
16 division, a regulation adopted pursuant to this division, or an order
17 issued under this chapter, if the requirement, regulation, or order
18 is applicable to a solid waste facility or a disposal site. An
19 enforcement agency or the ~~board~~ *Department of Toxics and Waste*
20 *Management* may impose the penalty administratively pursuant
21 to this part.

22 (b) In determining the amount of civil liability to be imposed
23 pursuant to this section, the ~~board~~ *Department of Toxics and Waste*
24 *Management* or enforcement agency shall take into consideration
25 the factors specified in Section 45016.

26 *SEC. 398. Section 45010.2 of the Public Resources Code is*
27 *amended to read:*

28 45010.2. Before the ~~board~~ *Department of Toxics and Waste*
29 *Management* or enforcement agency issues an order under this
30 chapter, except for a notice to comply pursuant to Section 45003,
31 the ~~board~~ *Department of Toxics and Waste Management* or
32 enforcement agency shall do both of the following:

33 (a) Notify the owner or operator of the solid waste facility or
34 the owner or operator of the disposal site, that the facility or site
35 is in violation of this division, a regulation adopted pursuant to
36 this division, or an order issued under this division, applicable to
37 a solid waste facility or disposal site.

38 (b) Upon the request of the owner or operator of the solid waste
39 facility or the owner or operator of the disposal site, meet with the
40 owner or operator to clarify the applicable requirements and to

1 determine what actions, if any, that the operator or owner may
2 voluntarily take to bring the facility or site into compliance by the
3 earliest feasible date.

4 *SEC. 399. Section 45011 of the Public Resources Code is*
5 *amended to read:*

6 45011. If an enforcement agency or the ~~board~~ *Department of*
7 *Toxics and Waste Management* determines that a solid waste
8 facility or disposal site is in violation of this division, a regulation
9 adopted pursuant to this division, the terms or conditions of a solid
10 waste facilities permit, an order issued under this division, or poses
11 a potential or actual threat to public health and safety or the
12 environment, or determines that a person has disposed of solid
13 waste at an unpermitted disposal site in violation of Section
14 44000.5, the enforcement agency or ~~board~~ *Department of Toxics*
15 *and Waste Management* may issue an order establishing a time
16 schedule according to which the facility or site shall be brought
17 into compliance with this division. The order may also provide for
18 a civil penalty, to be imposed administratively by the enforcement
19 agency or ~~board~~ *Department of Toxics and Waste Management*,
20 in an amount not to exceed five thousand dollars (\$5,000) for each
21 day on which a violation occurs, if compliance is not achieved in
22 accordance with that time schedule.

23 *SEC. 400. Section 45012 of the Public Resources Code is*
24 *amended to read:*

25 45012. (a) If an enforcement agency, despite having made a
26 good faith effort pursuant to its enforcement authority or any other
27 authority, is unable to correct a violation, and the ~~board~~ *Department*
28 *of Toxics and Waste Management*, acting through its ~~executive~~
29 director, and the enforcement agency both agree that enforcement
30 by the ~~board~~ *Department of Toxics and Waste Management* is
31 feasible and desirable pursuant to these circumstances, the ~~board~~
32 *Department of Toxics and Waste Management*, acting through its
33 ~~executive~~ director, may take any appropriate enforcement action
34 pursuant to this section.

35 (b) (1) Notwithstanding subdivision (a), the ~~board~~ *Department*
36 *of Toxics and Waste Management* shall not take any enforcement
37 action specified in this part without providing notice to the
38 enforcement agency and the violator of the ~~board's~~ *Department*
39 *of Toxics and Waste Management's* intent to take that action,
40 allowing the enforcement agency and the violator a reasonable

1 opportunity to correct the violation, and conducting a public
2 hearing on the matter.

3 (2) When taking an enforcement action pursuant to this section,
4 the ~~board~~ *Department of Toxics and Waste Management* is vested,
5 in addition to its other powers, with all of the authority to take an
6 action that an enforcement agency may take pursuant to this
7 division.

8 (c) Notwithstanding subdivisions (a) and (b), if the ~~board~~
9 *Department of Toxics and Waste Management* finds that an
10 enforcement agency's failure to take enforcement action constitutes
11 an imminent threat to public health and safety or to the
12 environment, the ~~board~~ *Department of Toxics and Waste*
13 *Management* may take the enforcement action that the ~~board~~
14 *Department of Toxics and Waste Management* determines is
15 necessary.

16 *SEC. 401. Section 45013 of the Public Resources Code is*
17 *amended to read:*

18 45013. The ~~board~~ *Department of Toxics and Waste*
19 *Management* shall make available guidance and assistance to the
20 enforcement agency regarding the inspection, investigation,
21 enforcement, and remediation of illegal, abandoned, inactive, or
22 closed disposal sites to ensure that public health and safety and
23 the environment are protected.

24 *SEC. 402. Section 45014 of the Public Resources Code is*
25 *amended to read:*

26 45014. (a) Upon the failure of a person to comply with a final
27 order issued by a local enforcement agency or the ~~board~~
28 *Department of Toxics and Waste Management*, the Attorney
29 General, upon request of the ~~board~~ *Department of Toxics and*
30 *Waste Management*, shall petition the superior court for the
31 issuance of a preliminary or permanent injunction, or both, as may
32 be appropriate, restraining the person or persons from continuing
33 to violate the order or complaint.

34 (b) An attorney authorized to act on behalf of the local
35 enforcement agency or the ~~board~~ *Department of Toxics and Waste*
36 *Management* may petition the superior court for injunctive relief
37 to enforce this part, a term or condition in a solid waste facilities
38 permit, or a standard adopted by the ~~board~~ *Department of Toxics*
39 *and Waste Management* or the local enforcement agency.

(c) In addition to the administrative imposition of civil penalties pursuant to this part, Article 6 (commencing with Section 42850) of Chapter 16 of Part 3, and Article 4 (commencing with Section 42962) of Chapter 19 of Part 3, an attorney authorized to act on behalf of the local enforcement agency or the ~~board~~ *Department of Toxics and Waste Management* may apply, to the clerk of the appropriate court in the county in which the civil penalty was imposed, for a judgment to collect the penalty. The application, which shall include a certified copy of the decision or order in the civil penalty action, constitutes a sufficient showing to warrant issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered shall include the amount of the court filing fee that would have been due from an applicant who is not a public agency, and has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered. The amount of the unpaid court filing fee shall be paid to the court prior to satisfying any of the civil penalty amount. Thereafter, any civil penalty or judgment recovered shall be paid, to the maximum extent allowed by law, to the ~~board~~ *Department of Toxics and Waste Management* or to the local enforcement agency, whichever is represented by the attorney who brought the action.

SEC. 403. Section 45016 of the Public Resources Code is amended to read:

45016. In making a determination regarding the allegations in, and the amount of any liability that may be imposed pursuant to, an order, petition, or complaint and determining the appropriate outcome, and when determining whether to deny, suspend, or revoke a permit or to deny a permit application, the issuing agency, the ~~board~~ *Department of Toxics and Waste Management*, or a court, as the case may be, shall take into consideration:

(a) The nature, circumstances, extent, and gravity of any violation or any condition giving rise to the violation and the various remedies and penalties that are appropriate in the given circumstances, with primary emphasis on protecting the public health and safety and the environment.

1 (b) Whether the violations or conditions giving rise to the
2 violation have been corrected in a timely fashion or reasonable
3 progress is being made.

4 (c) Whether the violations or conditions giving rise to the
5 violation demonstrate a chronic pattern of noncompliance with
6 this division, the regulations adopted pursuant to this division, or
7 with the terms and conditions of a solid waste facilities permit, or
8 pose, or have posed, a serious risk to the public health and safety
9 or to the environment.

10 (d) Whether the violations or conditions giving rise to the
11 violation were intentional.

12 (e) Whether the violations or conditions giving rise to the
13 violation were voluntarily and promptly reported to appropriate
14 authorities prior to the commencement of an investigation by the
15 enforcement agency.

16 (f) Whether the violations or conditions giving rise to the
17 violation were due to circumstances beyond the reasonable control
18 of the violator or were otherwise unavoidable under the
19 circumstances.

20 (g) Whether in the case of violations of this division, or the
21 regulations adopted pursuant to this division, the violator has
22 established one or more of the following programs prior to
23 committing the violation that will help to prevent violations of the
24 type committed in the future:

25 (1) A comprehensive compliance program designed to prevent
26 violations of this division, the regulations adopted pursuant to this
27 division, and of the terms and conditions of the solid waste facilities
28 permit.

29 (2) Employee training programs designed to educate the
30 employees regarding their responsibilities under this division, the
31 regulations adopted pursuant to this division, and the terms and
32 conditions of the solid waste facilities permit.

33 (3) Regular internal audits to monitor the effectiveness of the
34 comprehensive compliance programs described in paragraph (1).

35 (4) Confidential systems for employee reporting of potential
36 statutory, regulatory, or solid waste facilities permit violations and
37 for protecting persons so reporting from retaliatory employment
38 actions.

39 (5) Special incentive programs that promote and reward
40 statutory, regulatory, and permit compliance.

1 SEC. 404. *Section 45017 of the Public Resources Code is*
2 *amended to read:*

3 45017. (a) (1) Except as provided in paragraphs (2) and (3),
4 all orders and determinations issued pursuant to this part or Part
5 4 (commencing with Section 43000) shall take effect immediately
6 upon service.

7 (2) (A) If an order or determination is issued pursuant to this
8 part or Part 4 (commencing with Section 43000) to the owner or
9 operator of a solid waste facility operating under a solid waste
10 facilities permit issued in accordance with this part, the owner or
11 operator may petition the ~~executive~~ director of the ~~board~~
12 *Department of Toxics and Waste Management*, pursuant to this
13 subparagraph, to stay the effect of the order or determination, or
14 portion thereof, pending the completion of administrative appeals
15 before the hearing panel or hearing officer or the ~~board~~ *Department*
16 *of Toxics and Waste Management*.

17 (B) A petition submitted pursuant to subparagraph (A) shall be
18 in writing and shall state the extraordinary circumstances that
19 justify the stay. The petition shall also state the grounds, if any,
20 on which a finding may be made that the immediate effect of the
21 order or determination will preclude or interfere with the provision
22 of an essential public service so that the public health and safety
23 or the environment will be adversely affected.

24 (C) If the ~~executive~~ director finds the immediate effect of the
25 order or determination will preclude or interfere with the provision
26 of an essential public service so that the public health and safety
27 or the environment will be adversely affected, the ~~executive~~
28 director shall consider and act on the petition within three days
29 from the receipt of the petition. The ~~board~~ *Department of Toxics*
30 *and Waste Management* or the ~~executive~~ director may order the
31 stay to be in effect from the effective date of the order or
32 determination or other appropriate date.

33 (D) If the ~~executive~~ director does not find that the immediate
34 effect of the order or determination will preclude or interfere with
35 the provision of an essential public service, the ~~board~~ *Department*
36 *of Toxics and Waste Management* shall act upon the petition within
37 14 days or at its next scheduled public meeting, whichever date is
38 sooner.

39 (3) (A) If an order or determination is issued pursuant to this
40 part or Part 4 (commencing with Section 43000) to a person that

1 is not the owner or operator of a permitted solid waste facility, the
2 person subject to the order or determination may petition the ~~board~~
3 *Department of Toxics and Waste Management* pursuant to this
4 subparagraph to stay the effect of the order or determination, or
5 portion thereof, pending the completion of administrative appeals
6 before the hearing panel or hearing officer or the ~~board~~ *Department*
7 *of Toxics and Waste Management*.

8 (B) The ~~board~~ *Department of Toxics and Waste Management*
9 shall act on a petition filed pursuant to subparagraph (A) within
10 ~~14 ____ days or at its next scheduled public meeting whichever~~
11 ~~date is sooner~~. The ~~board~~ *Department of Toxics and Waste*
12 *Management* may order the stay to be in effect from the effective
13 date of the order or determination or other appropriate date.

14 (b) For purposes of this section, service may be effected by any
15 of the following:

16 (1) Personal delivery.

17 (2) First-class United States mail, if it is made by certified mail
18 and evidence of delivery is provided.

19 (3) Express delivery by a national express mail service that
20 provides evidence of delivery.

21 *SEC. 405. Section 45018 of the Public Resources Code is*
22 *amended to read:*

23 45018. The payment of civil liability assessed in any order
24 issued under this chapter shall be made within 30 days of the date
25 the order becomes final. Any penalties recovered shall be sent to
26 the ~~board~~ *Department of Toxics and Waste Management* or to the
27 enforcement agency, whichever brought the action, as provided
28 in subdivision (c) of Section 45014.

29 *SEC. 406. Section 45019 of the Public Resources Code is*
30 *amended to read:*

31 45019. At least 10 days prior to the date of issuance of an
32 enforcement order which is not for an emergency, or within five
33 days from the date of issuance of an enforcement order for an
34 emergency, or within 15 days from the date of discovery of a
35 violation of a state law, regulation, or term or condition of a solid
36 waste facilities permit for a solid waste facility or disposal site,
37 which is likely to result in an enforcement action, the following
38 agencies shall, to the extent that the enforcement action involves
39 a violation that may also be under the jurisdiction of another state
40 regulatory agency, provide a written statement providing an

1 explanation of, and justification for, the enforcement order or a
2 description of the violation in the following manner:

3 (a) The enforcement agency, as appropriate, shall provide the
4 statement to the regional water board, ~~the board~~ *Department of*
5 *Toxics and Waste Management*, the air pollution control district
6 or air quality management district, ~~and the Department of Toxic~~
7 ~~Substances Control~~.

8 (b) A regional water board, as appropriate, shall provide the
9 statement to the enforcement agency, ~~the board~~, the air pollution
10 control district or air quality management district, and the
11 Department of ~~Toxic Substances Control~~ *Toxics and Waste*
12 *Management*.

13 (c) An air pollution control district or an air quality management
14 district, as appropriate, shall provide the statement to the
15 enforcement agency, ~~the board~~, the regional water board, and the
16 Department of ~~Toxic Substances Control~~ *Toxics and Waste*
17 *Management*.

18 (d) The Department of ~~Toxic Substances Control~~ *Toxics and*
19 *Waste Management*, as appropriate, shall provide the report of
20 inspection required by paragraph (1) of subdivision (c) of Section
21 25185 of the Health and Safety Code to the enforcement agency,
22 ~~the board~~, the regional water board, and the air pollution control
23 district or air quality management district.

24 *SEC. 407. Section 45020 of the Public Resources Code is*
25 *amended to read:*

26 45020. (a) Within 30 days from the date of receipt of a notice
27 of the issuance of, or the proposal to issue, an enforcement order
28 pursuant to Section 45022, the regional water board, the
29 enforcement agency, or the air pollution control district or the air
30 quality management district, and ~~the Department of Toxic~~
31 ~~Substances Control~~ *Department of Toxics and Waste Management*,
32 as appropriate, shall inspect the solid waste facility or disposal site
33 to determine whether any state law, regulation, or term or condition
34 of a permit, which ~~that board~~ *the Department of Toxics and Waste*
35 *Management* or agency is authorized to enforce, is being violated.

36 (b) Each agency, to the maximum extent allowed by law, shall
37 do all of the following with respect to enforcement activities at
38 solid waste facilities and disposal sites:

39 (1) Coordinate enforcement activities to eliminate duplication
40 and facilitate compliance.

1 (2) Notify the owner and operator of the solid waste facility or
2 owner and operator of the disposal site of a violation before
3 imposing an administrative civil penalty.

4 (3) Prior to imposing an administrative penalty, and upon the
5 request of the owner or operator of the solid waste facility or owner
6 or operator of the disposal site, meet with the owner or operator
7 to clarify the regulatory requirements and to determine what
8 actions, if any, the owner or operator could voluntarily take to
9 bring the solid waste facility or disposal site into compliance by
10 the earliest feasible date. If a contemporaneous enforcement action
11 or investigation dealing with the same violation or with similar
12 violations is being pursued by another regulatory agency, a city
13 attorney, a county counsel, a district attorney, or the Attorney
14 General, the operator may request a meeting with all those
15 investigating and enforcement entities.

16 (4) Consider the factors prescribed in Section 45016 in
17 determining appropriate enforcement actions.

18 *SEC. 408. Section 45021 of the Public Resources Code is*
19 *amended to read:*

20 45021. If any board or agency specified in Section 45019
21 receives a complaint concerning a solid waste facility or disposal
22 site and the ~~board~~ *Department of Toxics and Waste Management*
23 or agency determines that it is not authorized to take action
24 concerning the complaint, the ~~board~~ *Department of Toxics and*
25 *Waste Management* or agency shall refer the complaint within 30
26 days from the date of receipt to another state agency that it
27 determines is authorized to take action.

28 *SEC. 409. Section 45022 of the Public Resources Code is*
29 *amended to read:*

30 45022. If any agency or board specified in Section 45019
31 receives a complaint concerning a solid waste facility or disposal
32 site that the agency or board *or the Department of Toxics and*
33 *Waste Management* does not refer to another state agency pursuant
34 to Section 45021, or if the agency or board *or the Department of*
35 *Toxics and Waste Management* receives this complaint referred
36 to it by another agency or board pursuant to Section 45021, the
37 agency or board *or the Department of Toxics and Waste*
38 *Management* shall either take appropriate enforcement action
39 concerning the facility or site pursuant to this part, or refer the
40 complaint to the Attorney General, the district attorney, the city

1 attorney, or the county counsel, whichever is applicable, or, at the
2 earliest feasible date, not to exceed 60 days, provide the person
3 who filed the complaint with a written statement explaining why
4 an enforcement action would not be appropriate.

5 *SEC. 410. Section 45023 of the Public Resources Code is*
6 *amended to read:*

7 45023. A civil penalty of not more than ten thousand dollars
8 (\$10,000) may be imposed upon a person who for each day the
9 violation or operation occurs:

10 (a) Owns or operates a solid waste facility or disposal site and
11 who intentionally or negligently violates or causes or permits
12 another to violate the terms and conditions of a solid waste facilities
13 permit or a standard, requirement, or order applicable to a solid
14 waste facility or disposal site.

15 (b) Operates a solid waste facility without a solid waste facilities
16 permit.

17 (c) With respect only to a solid waste facility or disposal site,
18 intentionally or negligently violates a provision of this division,
19 or a regulation, administrative order, or standard adopted by the
20 ~~board~~ *Department of Toxics and Waste Management* or an
21 enforcement agency.

22 *SEC. 411. Section 45024 of the Public Resources Code is*
23 *amended to read:*

24 45024. Any attorney authorized to act on behalf of the ~~board~~
25 *Department of Toxics and Waste Management* or a local
26 enforcement agency may petition the superior court to impose,
27 assess, and recover the civil penalties authorized by Section 45023.
28 Any penalties recovered pursuant to this section shall be paid, to
29 the maximum extent allowed by law, to the ~~board~~ *Department of*
30 *Toxics and Waste Management* or to the local enforcement agency,
31 whichever is represented by the attorney bringing the action.

32 *SEC. 412. Section 45025 of the Public Resources Code is*
33 *amended to read:*

34 45025. (a) (1) A violation of Part 4 (commencing with Section
35 43000) is a misdemeanor punishable by a fine of not less than five
36 hundred dollars (\$500) and not more than ten thousand dollars
37 (\$10,000) for each violation. Each instance of disposal that violates
38 Section 44000.5 is a separate violation.

39 (2) In addition to a fine under paragraph (1), a violation
40 punishable under paragraph (1) is punishable by imprisonment in

1 a county jail for not more than six months if any of the following
2 circumstances apply to the person convicted of a violation of this
3 section and cause or threaten to cause serious harm to public health
4 or safety or the environment:

5 (A) The person knowingly makes a false statement in a permit
6 application or other document used for the purpose of compliance
7 with this chapter.

8 (B) The person knowingly destroys, alters, or conceals any
9 records required to be maintained pursuant to this chapter.

10 (C) The person withholds information requested by the
11 enforcement agency.

12 (D) The person is convicted of more than one violation of this
13 division, or is in violation of more than one regulation adopted
14 pursuant to this division or term and condition of a permit.

15 (E) Upon receipt of an order from the ~~board~~ *Department of*
16 *Toxics and Waste Management* or a local enforcement agency, the
17 person fails to correct or make reasonable progress toward
18 correcting a violation.

19 (b) In addition to any fine imposed upon a conviction, the court
20 may require, as a condition of probation and in addition to any
21 other condition of probation, that the person convicted under this
22 section remove, or pay the cost of removing, any solid waste the
23 person unlawfully disposed, caused, or arranged to be disposed,
24 transported, or accepted for disposal.

25 *SEC. 413. Section 45030 of the Public Resources Code is*
26 *amended to read:*

27 45030. (a) A party to a hearing held pursuant to Chapter 4
28 (commencing with Section 44300) of Part 4 may appeal to the
29 ~~board~~ *Department of Toxics and Waste Management* to review the
30 written decision of the hearing panel or hearing officer or to review
31 the petitioner's request in the instance of a failure of a hearing
32 panel or hearing officer to render a decision or consider the request
33 for review, or a determination by the governing body not to direct
34 the hearing panel or hearing officer to hold a public hearing, under
35 the following circumstances:

36 (1) Within 10 days from the date of issuance of a written
37 decision by a hearing panel or hearing officer.

38 (2) If no decision is issued, within 45 days from the date a
39 request for a hearing was received by the enforcement agency for
40 which there was a failure of a hearing panel or hearing officer to

1 render a decision or consider a petitioner's request pursuant to
2 Section 44310.

3 (b) An appellant shall commence an appeal to the ~~board~~
4 *Department of Toxics and Waste Management* by filing a written
5 request for a hearing together with a brief summary statement of
6 the legal and factual basis for the appeal.

7 (c) Within five days from the date the ~~board~~ *Department of*
8 *Toxics and Waste Management* receives the request for a hearing,
9 the ~~board~~ *Department of Toxics and Waste Management* shall
10 schedule a hearing on the appeal and notify the appellant and all
11 other parties to the underlying proceeding of the date of the ~~board~~
12 *Department of Toxics and Waste Management* hearing.

13 (d) The ~~board~~ *Department of Toxics and Waste Management*
14 shall hear the appeal within 60 days from the date the ~~board~~
15 *Department of Toxics and Waste Management* received the request
16 for the appeal.

17 (e) The ~~board~~ *Department of Toxics and Waste Management*
18 shall conduct the hearing on the appeal in accordance with the
19 procedures specified in Article 10 (commencing with Section
20 11445.10) of Chapter 4.5 of Part 1 of the Government Code.

21 *SEC. 414. Section 45031 of the Public Resources Code is*
22 *amended to read:*

23 45031. Within 30 days from the date that an appeal is filed
24 with the ~~board~~ *Department of Toxics and Waste Management*, the
25 ~~board~~ *Department of Toxics and Waste Management* may do any
26 of the following:

27 (a) Determine not to hear the appeal if the appellant fails to raise
28 substantial issues.

29 (b) Determine not to hear the appeal if the appellant failed to
30 participate in the administrative hearing before the hearing panel,
31 except that the ~~board~~ *Department of Toxics and Waste Management*
32 shall hear the appeal if the appellant shows good cause for the
33 appellant's failure to appear.

34 (c) Determine to accept the appeal and to decide the matter on
35 the basis of the record before the hearing panel, or based on written
36 arguments submitted by the parties, or both.

37 (d) Determine to accept the appeal and hold a hearing, within
38 60 days, unless all parties stipulate to extending the hearing date.

39 *SEC. 415. Section 45032 of the Public Resources Code is*
40 *amended to read:*

1 45032. (a) In the ~~board's~~ *Department of Toxics and Waste*
2 *Management's* hearing on the appeal, the evidence before the ~~board~~
3 *Department of Toxics and Waste Management* shall consist of the
4 record before the hearing panel or hearing officer, relevant facts
5 as to any actions or inactions not subject to review by a hearing
6 panel or hearing officer, the record before the local enforcement
7 agency, written and oral arguments submitted by the parties, and
8 any other relevant evidence that, in the judgment of the ~~board~~
9 *Department of Toxics and Waste Management*, should be
10 considered to effectuate and implement the policies of this division.

11 (b) The ~~board~~ *Department of Toxics and Waste Management*
12 may only overturn an enforcement action, and any administrative
13 civil penalty, by a local enforcement agency if it finds, based on
14 substantial evidence, that the action was inconsistent with this
15 division. If the ~~board~~ *Department of Toxics and Waste Management*
16 overturns the decision of the local enforcement agency, the hearing
17 panel, or the hearing officer, or finds that the enforcement agency
18 has failed to act as required, the ~~board~~ *Department of Toxics and*
19 *Waste Management* may do both of the following:

20 (1) Direct that the appropriate action be taken by the local
21 enforcement agency.

22 (2) If the local enforcement agency fails to act by the date
23 specified by the ~~board~~ *Department of Toxics and Waste*
24 *Management*, take the appropriate action itself.

25 *SEC. 416. Section 45040 of the Public Resources Code is*
26 *amended to read:*

27 45040. (a) Within 30 days from the date of service of a copy
28 of a decision or order issued by the ~~board~~ *Department of Toxics*
29 *and Waste Management* pursuant to Section 45031 or 45032, any
30 aggrieved party may file with the superior court a petition for a
31 writ of mandate for review thereof.

32 (b) (1) The filing of a petition for writ of mandate shall not stay
33 any enforcement action taken or the accrual of any penalties
34 assessed, pursuant to this part or Part 5 (commencing with Section
35 45000).

36 (2) Paragraph (1) shall not prohibit the court from granting any
37 appropriate relief within its jurisdiction.

38 *SEC. 417. Section 45041 of the Public Resources Code is*
39 *amended to read:*

1 45041. The evidence before the court shall consist of the
2 records before the hearing panel or hearing officer and the ~~board~~
3 *Department of Toxics and Waste Management*, if any, including
4 the enforcement agency's records, and any other relevant evidence
5 that, in the judgment of the court, should be considered to
6 effectuate and implement the policies of this division.

7 *SEC. 418. Section 47050 of the Public Resources Code is*
8 *amended to read:*

9 ~~47050. The board shall, in consultation with the Department~~
10 ~~of Toxic Substances Control, Department of Toxics and Waste~~
11 *Management shall develop and implement a public information*
12 *program to provide uniform and consistent information on the*
13 *proper disposal of hazardous substances found in and around*
14 *homes. The program may include information, consistent with*
15 *product labeling, on the proper use and storage of products which*
16 *contain hazardous substances and on safer substitutes for products*
17 *which contain hazardous substances.*

18 *SEC. 419. Section 47102 of the Public Resources Code is*
19 *amended to read:*

20 ~~47102. The board~~ *Department of Toxics and Waste*
21 *Management shall designate a household hazardous waste*
22 *coordinator to advise and assist local governments and other*
23 *agencies which offer programs for household hazardous waste*
24 *management.*

25 *SEC. 420. Section 47103 of the Public Resources Code is*
26 *amended to read:*

27 ~~47103. The board~~ *Department of Toxics and Waste*
28 *Management shall provide technical assistance to local*
29 *governments and other agencies which establish household*
30 *hazardous waste management programs.*

31 *SEC. 421. Section 47104 of the Public Resources Code is*
32 *amended to read:*

33 ~~47104. The board shall prepare, in consultation with the~~
34 ~~Department of Toxic Substances Control, Department of Toxics~~
35 ~~and Waste Management shall prepare~~ *guidelines and a state policy*
36 *to guide the efforts of local agencies to provide household*
37 *hazardous waste collection, recycling, and disposal programs*
38 *pursuant to this article. The guidelines required by this section*
39 *shall allow adequate flexibility to local agencies in meeting their*
40 *individual needs, to the extent that the local agency's program*

1 does not conflict with the state policy prepared pursuant to this
2 subdivision.

3 *SEC. 422. Section 47106 of the Public Resources Code is*
4 *amended to read:*

5 47106. In establishing guidelines on which products should be
6 disposed of as hazardous waste, the ~~board~~ *Department of Toxics*
7 *and Waste Management* shall consider such factors as toxicity,
8 concentration of toxic ingredients in a product, and other
9 appropriate factors. The ~~board~~ *Department of Toxics and Waste*
10 *Management* shall also consider the appropriateness of excluding
11 from any listing of household hazardous wastes specific categories
12 of household products, such as products intended for human
13 consumption, personal hygiene products, and other categories of
14 household products intended for general consumer use.

15 *SEC. 423. Section 47107 of the Public Resources Code is*
16 *amended to read:*

17 47107. The guidelines and operation plan prepared pursuant
18 to subdivision (a) shall, upon request, be made available to local
19 agencies and the public. The ~~board~~ *Department of Toxics and*
20 *Waste Management* shall advise county health offices of the
21 availability of these materials and of the informational materials
22 developed pursuant to Article 1 (commencing with Section 47051).

23 *SEC. 424. Section 47108 of the Public Resources Code is*
24 *amended to read:*

25 47108. In developing the guidelines required by this article,
26 the ~~board~~ *Department of Toxics and Waste Management* shall, to
27 the extent feasible, consult existing sources of information,
28 including household hazardous waste collection programs which
29 have been operated in the state and in other states, and industry
30 and academia.

31 *SEC. 425. Section 47120 of the Public Resources Code is*
32 *amended to read:*

33 47120. (a) The Legislature finds and declares all of the
34 following:

35 (1) The United States Geological Survey conducted a study in
36 2002 sampling 139 streams across 30 states and found that 80
37 percent had measurable concentrations of prescription and
38 nonprescription drugs, steroids, and reproductive hormones.

(2) Exposure, even to low levels of drugs, has been shown to have negative effects on fish and other aquatic species and may have negative effects on human health.

(3) In order to reduce the likelihood of improper disposal of drugs, it is the purpose of this article to establish a program through which the public may return and ensure the safe and environmentally sound disposal of drugs and may do so in a way that is convenient for consumers.

(b) It is the intent of the Legislature in enacting this article:

(1) To encourage a cooperative relationship between the ~~board~~ *Department of Toxics and Waste Management* and manufacturers, retailers, and local, state, and federal government agencies in the ~~board's~~ *Department of Toxics and Waste Management's* development of model programs to devise a safe, efficient, convenient, cost-effective, sustainable, and environmentally sound solution for the disposal of drugs.

(2) For the programs and systems developed in other local, state, and national jurisdictions to be used as models for the development of pilot programs in California, including, but not limited to, the efforts in Los Angeles, Marin, San Mateo, and Santa Clara Counties, Oregon, Maine, North Carolina, Washington State, British Columbia, and Australia.

(3) To develop a system that recognizes the business practices of manufacturers and retailers and other dispensers and is consistent with and complements their drug management programs.

SEC. 426. Section 47121 of the Public Resources Code is amended to read:

47121. For the purposes of this article, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) "Consumer" means an individual purchaser or owner of a drug. "Consumer" does not include a business, corporation, limited partnership, or an entity involved in a wholesale transaction between a distributor and retailer.

(b) "Drug" means any of the following:

(1) Articles recognized in the official United States Pharmacopoeia, the official National Formulary, the official Homeopathic Pharmacopoeia of the United States, or any supplement of the formulary or those pharmacopoeias.

(2) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

(3) Articles, excluding food, intended to affect the structure or function of the body of humans or other animals.

(4) Articles intended for use as a component of an article specified in paragraph (1), (2), or (3).

(c) "Participant" means any entity which the ~~board~~ *Department of Toxics and Waste Management* deems appropriate for implementing and evaluating a model program and which chooses to participate, including, but not limited to, governmental entities, pharmacies, veterinarians, clinics, and other medical settings.

(d) "Sale" includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not include a sale that is a wholesale transaction with a distributor or retailer.

SEC. 427. Section 47122 of the Public Resources Code is amended to read:

47122. (a) (1) The ~~board~~ *Department of Toxics and Waste Management* shall, in consultation with appropriate state, local, and federal agencies, including, but not limited to, the ~~Department of Toxic Substances Control~~, the State Water Resources Control Board, and the California State Board of Pharmacy, develop model programs for the collection and proper disposal of drug waste. Notwithstanding any other provision of law, the ~~board~~ *Department of Toxics and Waste Management* shall establish, for participants, criteria and procedures for the implementation of the model programs.

(2) In developing model programs the ~~board~~ *Department of Toxics and Waste Management* shall evaluate a variety of models used by other state, local, and other governmental entities, and shall consider a variety of potential participants that may be appropriate for the collection and disposal of drug waste.

(3) No sooner than July 1, 2008, but no later than December 1, 2008, the ~~board~~ *California Integrated Waste Management Board* shall make the model programs available to eligible participants.

(b) The model programs shall at a minimum include all of the following:

(1) A means by which a participant is required to provide, at no additional cost to the consumer, for the safe take back and proper

1 disposal of the type or brand of drugs that the participant sells or
2 previously sold.

3 (2) A means by which a participant is required to ensure the
4 protection of public health and safety, the environment, and the
5 health and safety of consumers and employees.

6 (3) A means by which a participant is required to report to the
7 ~~board~~ *Department of Toxics and Waste Management* for purposes
8 of evaluation of the program for safety, efficiency, effectiveness,
9 and funding sustainability.

10 (4) A means by which a participant shall protect against the
11 potential for the diversion of drug waste for unlawful use or sale.

12 (c) The model programs shall provide notice and informational
13 materials for consumers that provide information about the
14 potential impacts of improper disposal of drug waste and the return
15 opportunities for the proper disposal of drug waste. Those materials
16 may include, Internet Web site links, a telephone number placed
17 on an invoice or purchase order, or packaged with a drug;
18 information about the opportunities and locations for no-cost drug
19 disposal; signage that is prominently displayed and easily visible
20 to the consumer; written materials provided to the consumer at the
21 time of purchase or delivery; reference to the drug take back
22 opportunity in advertising or other promotional materials; or direct
23 communications with the consumer at the time of purchase.

24 (d) Model programs deemed in compliance with this article
25 shall be deemed in compliance with state law and regulation
26 concerning the handling, management, and disposal of drug waste
27 for the purposes of implementing the model program.

28 (e) (1) The ~~board~~ *Department of Toxics and Waste Management*
29 may develop regulations pursuant to Chapter 3.5 (commencing
30 with Section 11340) of Part 1 of Division 3 of Title 2 of the
31 Government Code that are necessary to implement this article,
32 including regulations that the department determines are necessary
33 to implement the provisions of this article in a manner that is
34 enforceable.

35 (2) The ~~board~~ *Department of Toxics and Waste Management*
36 may adopt regulations to implement this article as emergency
37 regulations. The emergency regulations adopted pursuant to this
38 article shall be adopted by the department in accordance with
39 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
40 3 of Title 2 of the Government Code, and for the purposes of that

chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is hereby deemed an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by the department, whichever occurs sooner.

SEC. 428. Section 47123 of the Public Resources Code is amended to read:

47123. Notwithstanding Section 7550.5 of the Government Code, no later than December 1, 2010, the ~~board~~ Department of Toxics and Waste Management shall report to the Legislature. The report shall include an evaluation of the model programs for efficacy, safety, statewide accessibility, and cost effectiveness. The report shall include the consideration of the incidence of diversion of drugs for unlawful sale and use, if any. The report also shall provide recommendations for the potential implementation of a statewide program and statutory changes.

SEC. 429. Section 47200 of the Public Resources Code is amended to read:

47200. (a) The ~~board~~ Department of Toxics and Waste Management shall expend funds from the account, upon appropriation by the Legislature, for the making of grants to cities, counties, or other local agencies with responsibility for solid waste management, and for local programs to help prevent the disposal of hazardous wastes at disposal sites, including, but not limited to, programs to expand or initially implement household hazardous waste programs. In making grants pursuant to this section, the ~~board~~ Department of Toxics and Waste Management shall give priority to funding programs that provide for the following:

(1) New programs for rural areas, underserved areas, and for small cities.

(2) Expansion of existing programs to provide for the collection of additional waste types, innovative or more cost-effective collection methods, or expanded public education services.

(3) Regional household hazardous waste programs.

1 (b) (1) The total amount of grants made by the ~~board~~
2 *Department of Toxics and Waste Management* pursuant to this
3 section shall not exceed, in any one fiscal year, three million dollars
4 (\$3,000,000).

5 (2) Notwithstanding paragraph (1), the total amount of grants
6 made by the ~~board~~ *Department of Toxics and Waste Management*
7 pursuant to this section may exceed three million dollars
8 (\$3,000,000) but shall not exceed six million dollars (\$6,000,000),
9 in any one fiscal year, if sufficient funds are appropriated from the
10 Integrated Waste Management Account for this purpose.

11 *SEC. 430. Section 47201 of the Public Resources Code is*
12 *amended to read:*

13 47201. The ~~board~~ *Department of Toxics and Waste*
14 *Management* shall adopt regulations for implementation of this
15 article, including, but not limited to, criteria for selecting grant
16 recipients.

17 *SEC. 431. Section 47202 of the Public Resources Code is*
18 *amended to read:*

19 47202. All expenses incurred by the ~~board~~ *Department of*
20 *Toxics and Waste Management* in carrying out this article shall be
21 payable from the account. No liability or obligation is imposed
22 upon the state pursuant to this part, and the ~~board~~ *Department of*
23 *Toxics and Waste Management* shall not incur any liability or
24 obligation beyond the extent to which money is provided in the
25 account for the purposes of this article.

26 *SEC. 432. Section 47203 of the Public Resources Code is*
27 *amended to read:*

28 47203. Upon appropriation by the Legislature, the ~~board~~
29 *California Integrated Waste Management Board* shall allocate,
30 from the account, an amount not to exceed sixty thousand dollars
31 (\$60,000), to the Hazardous Waste Control Account, for
32 expenditure for the 1993–94 fiscal year, to the Department of ~~Toxic~~
33 ~~Substances Control~~ *Toxics and Waste Management*, for the
34 development and maintenance, jointly with the ~~board~~ *California*
35 *Integrated Waste Management Board*, of a data base of all
36 household hazardous waste collection events, facilities, and
37 programs within the state. On and after July 1, 1994, upon
38 appropriation by the Legislature, the ~~board~~ *Department of Toxics*
39 *and Waste Management* shall allocate an amount from the account

1 of not more than sixteen thousand three hundred dollars (\$16,300)
2 in each fiscal year for that purpose.

3 *SEC. 433. Section 47901 of the Public Resources Code is*
4 *amended to read:*

5 47901. (a) All revenues received by the ~~board~~ Department of
6 Toxics and Waste Management or the Department of Resources
7 Recycling and Recovery shall be deposited in the specified account
8 in the fund. Any revenue received by the ~~board~~ Department of
9 Toxics and Waste Management or the Department of Resources
10 Recycling and Recovery for which no account is specified shall
11 be deposited in the Integrated Waste Management Account created
12 by Section 48001 in the fund. The ~~board~~ Department of Toxics
13 and Waste Management may establish or modify other subaccounts
14 in the account, as appropriate and necessary for proper
15 administration.

16 (b) Any funds remaining in the Solid Waste Disposal Site
17 Cleanup and Maintenance Account in the Integrated Waste
18 Management Fund shall be transferred to the Integrated Waste
19 Management Account in the Integrated Waste Management Fund,
20 consistent with Section 16346 of the Government Code.

21 (c) Any expenditures charged to the Solid Waste Disposal Site
22 Cleanup and Maintenance Account in the fund shall be transferred
23 to the Integrated Waste Management Account.

24 *SEC. 434. Section 48000 of the Public Resources Code is*
25 *amended to read:*

26 48000. (a) Each operator of a disposal facility shall pay a fee
27 quarterly to the State Board of Equalization which is based on the
28 amount, by weight or volumetric equivalent, as determined by the
29 ~~board~~ Department of Toxics and Waste Management, of all solid
30 waste disposed of at each disposal site.

31 (b) The fee for solid waste disposed of shall be one dollar and
32 thirty-four cents (\$1.34) per ton. Commencing with the 1995–96
33 fiscal year, the amount of the fee shall be established by the ~~board~~
34 Department of Toxics and Waste Management at an amount that
35 is sufficient to generate revenues equivalent to the approved budget
36 for that fiscal year, including a prudent reserve, but shall not exceed
37 one dollar and forty cents (\$1.40) per ton.

38 (c) The ~~board~~ Department of Toxics and Waste Management
39 shall notify the State Board of Equalization on the first day of the

1 period in which the rate shall take effect of any rate change adopted
2 pursuant to this section.

3 (d) ~~The board~~ *Department of Toxics and Waste Management*
4 and the State Board of Equalization shall ensure that all the fees
5 for solid waste imposed pursuant to this section that are collected
6 at a transfer station are paid to the State Board of Equalization in
7 accordance with this article.

8 *SEC. 435. Section 48004 of the Public Resources Code is*
9 *amended to read:*

10 48004. (a) The money in the account shall be used by the ~~board~~
11 *Department of Toxics and Waste Management and the Department*
12 *of Resources Recycling and Recovery*, upon appropriation by the
13 Legislature, for the following purposes:

14 (1) The administration and implementation of this division by
15 the ~~board~~ *Department of Toxics and Waste Management and the*
16 *Department of Resources Recycling and Recovery, as applicable.*

17 (2) The state water board's and regional water board's
18 administration and implementation of Division 7 (commencing
19 with Section 13000) of the Water Code at solid waste disposal
20 sites.

21 (b) It is the intent of the Legislature that an amount which is
22 sufficient to fund state water board and regional water board
23 regulatory activities for solid waste landfills be appropriated from
24 the account by the Legislature in the annual Budget Act. Those
25 persons who are required to pay the fee imposed pursuant to
26 Section 48000 shall not be required to pay the annual fee imposed
27 pursuant to subdivision (d) of Section 13260 of the Water Code
28 with regard to the same discharge.

29 (c) Notwithstanding subdivisions (a) and (b), if the fee
30 established pursuant to Section 48000 does not generate revenues
31 sufficient to fund the programs specified in this section, or if the
32 amount appropriated by the Legislature for these purposes is
33 reduced, those reductions shall be equally and proportionally
34 distributed between funding for the solid waste programs of the
35 state water board and the regional water boards and the ~~board~~
36 *Department of Toxics and Waste Management and the Department*
37 *of Resources Recycling and Recovery.*

38 *SEC. 436. Section 48005 of the Public Resources Code is*
39 *amended to read:*

1 48005. Unless otherwise specified, all money received by the
2 ~~board~~ *Department of Toxics and Waste Management* shall be
3 deposited in the Integrated Waste Management Account and shall
4 be used by the ~~board~~ *Department of Toxics and Waste Management*
5 *and the Department of Resources Recycling and Recovery*, upon
6 appropriation by the Legislature, for the purposes for which it was
7 collected or, if not expressly specified for a particular purpose, for
8 the purposes of this division, except Part 6 (commencing with
9 Section 46000), which shall be funded by fees pursuant to Section
10 46801.

11 *SEC. 437. Section 48006 of the Public Resources Code is*
12 *amended to read:*

13 48006. The ~~board~~ *Department of Toxics and Waste*
14 *Management* may exempt from all fees any operator of a solid
15 waste landfill that receives less than a monthly average of five
16 tons per operating day of solid waste.

17 *SEC. 438. Section 48020 of the Public Resources Code is*
18 *amended to read:*

19 48020. (a) For purposes of this article, the following terms
20 have the following meaning:

21 (1) "Codisposal site" means a hazardous substance release site
22 listed pursuant to Section 25356 of the Health and Safety Code,
23 where the disposal of hazardous substances, hazardous waste, and
24 solid waste has occurred.

25 (2) "Trust fund" means the Solid Waste Disposal Site Cleanup
26 Trust Fund created pursuant to Section 48027.

27 (b) The ~~board~~ *California Integrated Waste Management Board*
28 shall, on January 1, 1994, initiate a program for the cleanup of
29 solid waste disposal sites and for the cleanup of solid waste at
30 codisposal sites where the responsible party either cannot be
31 identified or is unable or unwilling to pay for timely remediation,
32 and where cleanup is needed to protect public health and safety or
33 the environment. *On and after January 1, 2010, the Department*
34 *of Toxics and Waste Management shall administer the program.*

35 (c) The ~~board~~ *Department of Toxics and Waste Management*
36 shall not expend more than 5 percent of the funds appropriated for
37 the purpose of the program by a statute other than the Budget Act
38 to administer that program, unless a different amount is otherwise
39 appropriated to administer the program in the annual Budget Act.
40 If a different amount is appropriated to administer the program in

1 the annual Budget Act, it shall be set forth in a separate line item.
2 All remaining funds appropriated for the purposes of the program
3 shall be expended on direct cleanup pursuant to subdivision (b) or
4 emergency actions at solid waste facilities, disposal sites, sites
5 involving solid waste handling, and for solid waste at codisposal
6 sites.

7 *SEC. 439. Section 48021 of the Public Resources Code is*
8 *amended to read:*

9 48021. (a) In prioritizing the sites for cleanup pursuant to
10 Section 48020, the ~~board~~ *Department of Toxics and Waste*
11 *Management* shall consider the degree of risk to public health and
12 safety and the environment posed by conditions at a site, the ability
13 of the site owner to clean up the site without monetary assistance,
14 the ability of the ~~board~~ *Department of Toxics and Waste*
15 *Management* to clean up the site adequately with available funds,
16 maximizing the use of available funds, and other factors as
17 determined by the ~~board~~ *Department of Toxics and Waste*
18 *Management*.

19 (b) (1) In administering the program authorized by Section
20 48020, the ~~board~~ *Department of Toxics and Waste Management*
21 may expend funds directly for cleanup, provide loans to parties
22 who demonstrate the ability to repay state funds, and provide partial
23 grants to public entities, to assist in site cleanup.

24 (2) The ~~board~~ *Department of Toxics and Waste Management*
25 may expend funds directly for the cleanup of a publicly owned
26 site only if the ~~board~~ *Department of Toxics and Waste Management*
27 determines that the public entity lacks resources or expertise to
28 timely manage the cleanup itself.

29 (3) In addition to the criteria specified in subdivision (a), in
30 considering partial grants that provide greater than 50 percent of
31 the funds directly for cleanup, the ~~board~~ *Department of Toxics and*
32 *Waste Management* shall consider the amount of contributions of
33 moneys or in-kind services from the applicant; the availability of
34 other appropriate funding sources to remediate the site; the degree
35 of public benefit; the presence of innovative and cost-effective
36 programs to abate or prevent solid waste problems to be addressed
37 by the grants; and other factors as determined by the ~~board~~
38 *Department of Toxics and Waste Management*.

39 (c) (1) In addition to the expenditures specified in subdivision
40 (b), the ~~board~~ *Department of Toxics and Waste Management* may

1 expend a portion of the funds appropriated for the program to abate
2 illegal disposal sites.

3 (2) For the purposes of this subdivision, the ~~board~~ *Department*
4 *of Toxics and Waste Management* may provide grants to public
5 entities.

6 (3) Where funds are provided by the ~~board~~ *Department of Toxics*
7 *and Waste Management* to address illegal disposal sites within a
8 jurisdiction, the local enforcement agency shall provide ongoing
9 enforcement to prevent recurring illegal disposal at the site.

10 (4) For the purposes of this subdivision, an activity to remove
11 or abate solid waste disposed into a municipal storm sewer is
12 eligible to receive a partial grant, if the grant is used for solid waste
13 cleanup, solid waste abatement, or any other activity that mitigates
14 the impact of solid waste, and an ongoing program is established
15 to prevent recurring solid waste disposal into the municipal storm
16 sewer.

17 (d) In developing and implementing the program, the ~~board~~
18 *Department of Toxics and Waste Management* shall consult with
19 certified local enforcement agencies and the regional water boards.

20 *SEC. 440. Section 48022 of the Public Resources Code is*
21 *amended to read:*

22 48022. The Legislature finds and declares all of the following:

23 (a) Pursuant to the legal framework and definitions pertaining
24 to solid waste contained in this division, the ~~board~~ *Department of*
25 *Toxics and Waste Management* and the local enforcement agencies
26 have general authority and responsibility for responding to
27 environmental conditions at solid waste disposal sites to ensure
28 protection of the public health and safety and the environment.

29 (b) The definitions of “solid waste,” “solid waste disposal,” and
30 “solid waste landfill” establish some of the parameters for the
31 general authority and responsibility of the ~~board~~ *Department of*
32 *Toxics and Waste Management* and the local enforcement agencies.

33 (c) The Solid Waste Disposal and Codisposal Site Cleanup
34 Program established under this article establishes a mechanism
35 for funding the cleanup of solid waste disposal sites and the solid
36 waste at codisposal sites under specified conditions and
37 circumstances.

38 (d) A burn dump site is a solid waste disposal site and, as such,
39 is a site that is eligible for funding pursuant to the program,
40 provided all other criteria for program eligibility are met.

1 (e) Pursuant to the Health and Safety Code, the Department of
2 ~~Toxic Substances Control~~ *Toxics and Waste Management* has
3 general jurisdiction, authority, and responsibility regarding
4 hazardous substance release sites.

5 (f) Pursuant to the Water Code, the State Water Resources
6 Control Board and the regional water quality control boards have
7 general jurisdiction, authority, and responsibility regarding
8 protection of the waters of the state, including, but not limited to,
9 solid waste and hazardous waste discharges.

10 (g) Most burn dump sites impact multiple media. Burn dump
11 sites usually contain hazardous substances and, therefore, most
12 can be characterized generally as hazardous substance release sites.
13 Burn dump sites also contain predominantly solid waste and,
14 therefore, can be characterized generally as solid waste disposal
15 sites. Some burn dump sites impact, or have the potential to impact,
16 waters of the state.

17 (h) Burn dump sites are presumed to be solid waste disposal
18 sites, subject to the general authority and responsibility of the ~~board~~
19 *Department of Toxics and Waste Management* and the local
20 enforcement agencies. In addition to this general presumption, it
21 is the intent of the Legislature to require that the procedures set
22 forth in Section 48022.5 be followed to ensure that hazardous
23 substances and hazardous wastes at burn dump sites are adequately
24 characterized and safely managed and remediated in consultation
25 with, or under the direct oversight of, the department or the
26 appropriate regional water quality control board, or both.

27 *SEC. 441. Section 48022.5 of the Public Resources Code is*
28 *amended to read:*

29 48022.5. (a) For the purposes of this section, the following
30 terms have the following meanings, unless the context clearly
31 requires otherwise:

32 (1) "Burn dump site" means a solid waste disposal site that
33 meets all of the following conditions:

34 (A) Was operated prior to 1972.

35 (B) Is closed.

36 (C) Prior to closure, was a site where open burning was
37 conducted.

38 (2) "Department" means the Department of ~~Toxic Substances~~
39 ~~Control~~ *Toxics and Waste Management*.

1 (3) “Regional board” means a California regional water quality
2 control board.

3 (4) “Remediation oversight agency” means the entity responsible
4 for environmental oversight on a burn dump site remediation
5 project.

6 (5) “Sensitive land use” means either of the following:

7 (A) Use for residences, schools, day care facilities, hospitals
8 and hospices, and other facilities or structures that have a high
9 density of occupation on a daily basis.

10 (B) Use as a park, golf course, or any other, similar open-space
11 area that is made available for public use, when the park, golf
12 course, or open-space area has a potential for human exposure to
13 hazardous substances.

14 (b) On or before June 30, 2003, the department, in consultation
15 with the ~~board~~ *California Integrated Waste Management Board*
16 and the State Water Resources Control Board, shall develop
17 protocols to be utilized by the ~~board~~ *department* and the local
18 enforcement agencies for site investigation and characterization
19 of hazardous substances at burn dump sites.

20 (1) The protocols shall include, but need not be limited to, both
21 of the following items:

22 (A) Sampling and analysis protocols to be utilized by the ~~board~~
23 *California Integrated Waste Management Board* and the local
24 enforcement agencies for site investigation and characterization
25 of hazardous substances at burn dump sites.

26 (B) Appropriate abatement measures for nonsensitive land uses.

27 (2) In addition, the protocols may include either or both of the
28 following items:

29 (A) Cleanup guidelines, levels, or thresholds for one or more
30 typical constituents of concern based on nonsensitive land uses.

31 (B) Specifications for confirmation sampling on partial and
32 complete clean-closed sites.

33 (c) Whenever the ~~board~~ *department* receives an application for
34 funding under this article for a burn dump site, the ~~board~~
35 *department* shall use the protocols *it* developed ~~by the department~~
36 under subdivision (b) to investigate and characterize hazardous
37 substances at the site.

38 (d) Once sufficient site information is available, the ~~board~~
39 *department* shall notify the ~~department~~ and the appropriate regional

1 board of ~~the board's~~ *its* interest in providing funding and
2 remediation oversight for the site.

3 (e) For a nonsensitive land use site, ~~the board~~ *department* shall
4 proceed as the remediation oversight agency, following the
5 notification required under subdivision (d), unless the department
6 or regional board requests a site consultation meeting under
7 subdivision (g).

8 (f) For an existing or proposed sensitive land use site, ~~the board~~
9 *department* shall request a site consultation meeting under
10 subdivision (g).

11 (g) For sites with existing or proposed sensitive land uses or
12 water quality impacts, or where otherwise requested by the
13 department or a regional board, ~~the board~~, the department, the
14 State Water Resources Control Board, and the appropriate regional
15 board shall hold a site consultation meeting to determine which
16 agency will provide remediation oversight. If, following a review
17 of the site information, the department or a regional board requests
18 to provide remediation oversight, that request shall be granted. If
19 the department or a regional board does not request to provide
20 remediation oversight, remediation oversight of the site shall
21 remain with ~~the board~~ *department*. In cases where ~~the board~~
22 *department* requested the meeting, the determination of remediation
23 oversight agency shall be made within 30 days of ~~the board's~~
24 *department's* request for the meeting.

25 (h) ~~The board~~ *department* may require the imposition of an
26 environmental restriction on any burn dump site where solid waste
27 or residuals from the burning of solid waste is left in place. The
28 environmental restriction shall meet the requirements described
29 in Section 1471 of the Civil Code, and the restrictions shall run
30 with the land.

31 (i) On or before March 30, 2003, ~~the board and~~ the department
32 shall enter into an agreement relating to the funding of any
33 activities of the department appropriately conducted pursuant to
34 this section.

35 (j) Nothing in this section is intended to limit the authority of
36 ~~the board~~, the department, the State Water Resources Control
37 Board, or a regional board pursuant to other provisions of law.

38 (k) Nothing in this section is intended to preclude any qualifying
39 entity from applying for and receiving funding assistance under
40 any other provision of law.

1 *SEC. 442. Section 48023 of the Public Resources Code is*
2 *amended to read:*

3 48023. (a) If the ~~board~~ *Department of Toxics and Waste*
4 *Management* expends any funds pursuant to this article, the ~~board~~
5 *Department of Toxics and Waste Management* shall, to the extent
6 feasible, seek repayment from responsible parties in an amount
7 equal to the amount expended, a reasonable amount for the ~~board's~~
8 *Department of Toxics and Waste Management's* cost of contract
9 administration, and an amount equal to the interest that would have
10 been earned on the expended funds.

11 (b) In implementing this article, the ~~board~~ *Department of Toxics*
12 *and Waste Management* is vested, in addition to its other powers,
13 with all the powers of an enforcement agency under this division.

14 (c) The amount of any cost incurred by the ~~board~~ *Department*
15 *of Toxics and Waste Management* pursuant to this article shall be
16 recoverable from responsible parties in a civil action brought by
17 the ~~board~~ or, upon the request of the ~~board~~, by the ~~Attorney General~~
18 ~~pursuant to Section 40432~~ *Department of Toxics and Waste*
19 *Management.*

20 *SEC. 443. Section 48023.5 of the Public Resources Code is*
21 *amended to read:*

22 48023.5. (a) In addition to the remedies authorized under
23 Section 48023, any costs or damages incurred under this article
24 by the ~~board~~ *Department of Toxics and Waste Management*
25 constitute a lien upon the real property owned by any responsible
26 party that is subject to the remedial action. The lien shall attach
27 regardless of whether the responsible party is insolvent. A lien
28 imposed under this section shall arise at the time costs are first
29 incurred by the ~~board~~ *Department of Toxics and Waste*
30 *Management* with respect to a remedial action at the site.

31 (b) A lien established under this section shall be subject to the
32 notice and hearing procedures required by due process of the law.
33 Prior to imposing the lien, the ~~board~~ *Department of Toxics and*
34 *Waste Management* shall send the property owner via certified
35 mail a "Notice of Intent to Place A Lien" letter. This letter shall
36 provide that the owner, within 14 calendar days from the date of
37 receipt of the letter, may object to the imposition of the lien either
38 in writing or through an informal proceeding before a neutral
39 official. This neutral official ~~shall be the board's executive director~~
40 ~~or his or her designee, who~~ may not have had any prior

involvement with the site _____. The issue before the neutral official shall be whether the ~~board~~ *Department of Toxics and Waste Management* has a reasonable basis for its determination that the statutory elements for lien placement under this section are satisfied. During this proceeding the property owner may present information or submit documents, or both, to establish that the ~~board~~ *Department of Toxics and Waste Management* should not place a lien as proposed. The neutral official shall assure that a record of the proceeding is made, and shall issue a written decision. The decision shall state whether the property owner has established any issue of fact or law to alter the ~~board's~~ *Department of Toxics and Waste Management's* intention to file a lien, and the basis for the decision.

(c) The ~~board~~ *Department of Toxics and Waste Management* may not be considered a responsible party for a remediated site merely because a lien is imposed under this section.

(d) A lien imposed under this section shall continue until the liability for the costs or damages incurred under this article, or a judgment against the responsible party, is satisfied. However, if it is determined by a court that the judgment against the responsible party will not be satisfied, the ~~board~~ *Department of Toxics and Waste Management* may exercise its rights under the lien.

(e) A lien imposed under this section shall have the force and effect of, and the priority of, a judgment lien upon its recordation in the county in which the property subject to the lien is located. The lien shall contain a legal description of the real property that is subject to, or affected by, the remedial action, the assessor's parcel number, and the name of the owner of record, as shown on the latest equalized assessment roll.

(f) All funds recovered under this section on behalf of the ~~board's~~ *Department of Toxics and Waste Management's* solid waste disposal and codisposal site cleanup program shall be deposited in the Solid Waste Disposal Site Cleanup Trust Fund established under Section 48027.

SEC. 444. *Section 48025 of the Public Resources Code is amended to read:*

48025. The ~~board~~ *Department of Toxics and Waste Management* may adopt regulations for the implementation of this article.

1 *SEC. 445. Section 48026 of the Public Resources Code is*
2 *amended to read:*

3 48026. All expenses which are incurred by the ~~board~~
4 *Department of Toxics and Waste Management* in carrying out this
5 article shall be payable solely from the trust fund. No liability or
6 obligation is imposed upon the state pursuant to this part, and the
7 ~~board~~ *Department of Toxics and Waste Management* shall not
8 incur a liability or obligation beyond the extent to which money
9 is provided in the trust fund for the purposes of this article.

10 *SEC. 446. Section 48027 of the Public Resources Code is*
11 *amended to read:*

12 48027. (a) (1) The Legislature hereby finds and declares that
13 effective response to cleanup at solid waste disposal and codisposal
14 sites requires that the state have sufficient funds available in the
15 trust fund created pursuant to subdivision (b).

16 (2) The Legislature further finds and declares that the
17 maintenance of the trust fund is of the utmost importance to the
18 state and that it is essential that any money in the trust fund be
19 used solely for the purposes authorized in this article and not be
20 used, loaned, or transferred for any other purpose.

21 (b) The Solid Waste Disposal Site Cleanup Trust Fund is hereby
22 created in the State Treasury. Notwithstanding Section 13340 of
23 the Government Code, the money in the trust fund is hereby
24 continuously appropriated to the ~~board~~ *Department of Toxics and*
25 *Waste Management* for expenditure, without regard to fiscal years,
26 for the purposes of this article.

27 (c) The following money shall be deposited into the trust fund:

28 (1) Funds appropriated by the Legislature from the Integrated
29 Waste Management Account to the ~~board~~ *Department of Toxics*
30 *and Waste Management* for solid waste disposal or codisposal site
31 cleanup.

32 (2) Any interest earned on the money in the trust fund.

33 (3) Any cost recoveries from responsible parties for solid waste
34 disposal or codisposal site cleanup and loan repayments pursuant
35 to this article.

36 (d) If this article is repealed, the trust fund shall be dissolved
37 and all money in the fund shall be distributed to solid waste landfill
38 operators who have paid into the trust fund during effective life
39 of the trust fund.

(e) Any trust fund distributions received by solid waste landfill operators pursuant to subdivision (c) may be used for only any of the following activities, as related to solid waste landfills:

(1) Solid waste landfill closure and postclosure maintenance operations.

(2) Implementation of Part 258 (commencing with Section 258.1) of Title 40 of the Code of Federal Regulations.

(3) Corrective actions at the solid waste landfill.

(f) The balance in the trust fund each July 1 shall not exceed thirty million dollars (\$30,000,000).

SEC. 447. Section 48028 of the Public Resources Code is amended to read:

48028. Any funds appropriated for the purpose of the program that are not expended shall remain in the trust fund for future expenditure by the ~~board~~ *Department of Toxics and Waste Management* for the purposes of this article or until this article is repealed.

SEC. 448. Section 48100 of the Public Resources Code is amended to read:

48100. (a) The Legislature hereby finds and declares that illegal disposal of solid waste on property owned by innocent parties is a longstanding problem needing attention and that grants provided under this chapter will support the cleanup of farm and ranch property.

(b) The ~~board~~ *Department of Toxics and Waste Management* shall ~~establish~~ *administer* the farm and ranch solid waste cleanup and abatement grant program for the purposes of cleaning up and abating the effects of illegally disposed solid waste pursuant to this chapter.

(c) (1) The Farm and Ranch Solid Waste Cleanup and Abatement Account is hereby created in the General Fund and may be expended by the ~~board~~ *Department of Toxics and Waste Management*, upon appropriation by the Legislature in the annual Budget Act, for the purposes of this chapter.

(2) The following funds shall be deposited into the account:

(A) Money appropriated by the Legislature from the Integrated Waste Management Fund or the California Used Oil Recycling Fund to the ~~board~~ *Department of Toxics and Waste Management* for the grant program, or from the California Tire Recycling Management Fund to the ~~board~~ *Department of Toxics and Waste*

1 *Management* for the purposes set forth in subdivision (j) of Section
2 42889.

3 (B) Notwithstanding Section 16475 of the Government Code,
4 any interest earned on the money in the account.

5 (3) The ~~board~~ *Department of Toxics and Waste Management*
6 may expend the money in the account for both of the following
7 purposes:

8 (A) To pay the costs of implementing this chapter, which costs
9 shall not exceed 7 percent of the funds available for the grant
10 program.

11 (B) To make payments for grants authorized by this chapter.

12 (4) Upon authorization by the Legislature in the annual Budget
13 Act, the sum of all funds transferred into the account from other
14 funds or accounts shall not exceed one million dollars (\$1,000,000)
15 annually.

16 (5) Notwithstanding any other provision of law, the grant
17 program shall be funded from the following funds:

18 (A) The Integrated Waste Management Fund.

19 (B) The California Tire Recycling Management Fund, for the
20 purposes set forth in subdivision (j) of Section 42889.

21 (C) The California Used Oil Recycling Fund.

22 (d) For purposes of this chapter, the following definitions shall
23 apply:

24 (1) "Native American tribe" has the same meaning as tribe, as
25 defined in subdivision (b) of Section 44201.

26 (2) "Public entity" means a city, county, or resource
27 conservation district.

28 *SEC. 449. Section 48101 of the Public Resources Code is*
29 *amended to read:*

30 48101. (a) The grant program shall be established to make
31 grants available to public entities and Native American tribes for
32 the purposes described in subdivision (b) of Section 48100 in an
33 amount not to exceed the sum of two hundred thousand dollars
34 (\$200,000) per year for any single public entity or Native American
35 tribe, and not to exceed fifty thousand dollars (\$50,000) for any
36 single cleanup or abatement project. A Native American tribe or
37 public entity may not expend more than 7 percent of the grant for
38 administrative costs.

39 (b) The ~~board~~ *Department of Toxics and Waste Management*
40 shall give priority to the provision of grants to public entities and

1 Native American tribes that have established innovative and
2 cost-effective programs designed to discourage the illegal disposal
3 of solid waste and to encourage the proper disposal of solid waste
4 in permitted solid waste disposal facilities.

5 (c) A grant agreement between the ~~board~~ *Department of Toxics*
6 *and Waste Management* and a public entity or Native American
7 tribe may provide for, but is not limited to, all of the following
8 provisions:

9 (1) Site-specific cleanup and removal of solid waste that is
10 illegally disposed on farm or ranch property.

11 (2) Comprehensive, ongoing enforcement programs for the
12 cleanup and removal of solid waste that is illegally disposed of on
13 farm or ranch property.

14 (3) Waiver of tipping fees or other solid waste fees at permitted
15 solid waste facilities for solid waste that was illegally disposed of
16 on farm or ranch property.

17 (d) On and after the adoption of grant program regulations by
18 the ~~board~~ *Department of Toxics and Waste Management*, any fines
19 levied on, or abatement orders issued against, a farm or ranch
20 owner by the local enforcement agency or other local agency as
21 the result of solid waste disposed of on the owner's farm or ranch
22 property, regarding which the owner has made application to a
23 public entity or Native American tribe for a grant under this
24 chapter, shall be stayed, upon the owner's written request to the
25 local enforcement agency or other local agency, if (1) the local
26 agency makes a decision that the property owner was not
27 responsible for the dumping or (2) the property owner has filed a
28 written appeal of the local agency's decision to the ~~board~~
29 *Department of Toxics and Waste Management* and the ~~board's~~
30 *Department of Toxics and Waste Management's* decision on the
31 matter is pending.

32 *SEC. 450. Section 48103 of the Public Resources Code is*
33 *amended to read:*

34 48103. (a) The ~~board~~ *Department of Toxics and Waste*
35 *Management* shall adopt regulations to implement this chapter.

36 (b) The regulations adopted pursuant to this section shall include
37 criteria for grant eligibility and shall establish a process that is
38 open and accessible to the public under which grant applications
39 may be reviewed, ranked, and awarded. The regulations shall also
40 develop a process for a farm or ranch property owner to appeal a

1 public entity's or Native American tribe's determination of
2 responsibility pursuant to Section 48102.

3 (c) The regulations adopted under this section shall require the
4 applicant public entity or Native American tribe to certify to both
5 of the following:

6 (1) That the public entity or Native American tribe is the only
7 applicant for funding under the program for any particular farm
8 or ranch property.

9 (2) That the owner of the farm or ranch property is not
10 responsible for the illegal disposal of the solid waste.

11 (3) That the public entity or Native American tribe has in place
12 a program that is sufficient to prevent future incidents of illegal
13 solid waste disposal.

14 (d) If a public entity or Native American tribe denies a grant
15 application, it shall notify the farm or ranch property owner in
16 writing as to why the application was denied.

17 (e) Nothing in this section is intended to prevent a farm or ranch
18 property owner from receiving reimbursement for solid waste
19 cleanup or abatement costs under the grant program or pursuant
20 to any other law.

21 *SEC. 451. Section 48104 of the Public Resources Code is*
22 *amended to read:*

23 48104. Each year, as part of the annual report required to be
24 submitted pursuant to Section 40507, the ~~board~~ *Department of*
25 *Toxics and Waste Management* shall report to the Governor and
26 the Legislature on all of the following:

27 (a) Actions the ~~board~~ *Department of Toxics and Waste*
28 *Management* has taken under the grant program.

29 (b) The costs and effectiveness in cleaning up and abating solid
30 waste illegally disposed of on farm and ranch property.

31 (c) The number of sites cleaned up and abated in each county.

32 (d) The number of participant cities, counties, districts, and
33 Native American tribes, and the sites cleaned up and abated through
34 those cities, counties, districts, and Native American tribes.

35 (e) The types of solid waste cleaned up and abated.

36 (f) The number of sites not approved for the grant program, and
37 the reasons for that disapproval.

38 (g) The types of property on which solid waste has been cleaned
39 up and abated.

SEC. 452. *Section 48106 of the Public Resources Code is amended to read:*

48106. Nothing in this chapter is intended to relieve any party who is responsible for the generation or illegal deposition of the solid waste from liability for removal costs if the party can be identified. Farm or ranch property owners whose property is the subject of solid waste cleanup or abatement under this chapter and who are not responsible for the generation or deposition of the solid waste shall not be subject to any cost recovery action for cleanup or abatement costs borne by public entities or Native American tribes or the ~~board~~ *Department of Toxics and Waste Management* under this chapter.

SEC. 453. *Section 48202 of the Public Resources Code is amended to read:*

48202. (a) The Legislature hereby establishes the Landfill Closure Loan Program to provide financial assistance to operators of older-technology, unlined landfills, who want to pursue early landfill closure in order to mitigate potential environmental problems.

(b) The ~~board~~ *Department of Toxics and Waste Management* may expend funds from the Integrated Waste Management Fund, upon appropriation by the Legislature, to make loans to operators of solid waste landfills to assist them in the early closure of their landfills. In granting loans, the ~~board~~ *Department of Toxics and Waste Management* shall give highest priority to operators of small, rural, unlined landfills that, if not closed, would represent the most serious potential threat to the public health and safety, or the environment, in the opinion of the ~~board~~ *Department of Toxics and Waste Management*.

(c) The ~~board~~ *Department of Toxics and Waste Management* may expend money in the fund, upon appropriation by the Legislature, for program administration.

(d) All funds received from the operation of the program, including, but not limited to, principal repayments, recovery of collection costs, income earned on any asset recovered pursuant to loan default, and funds collected through foreclosure actions, shall be deposited in the fund and may be used for purposes authorized by this chapter.

(e) The ~~board~~ *Department of Toxics and Waste Management* may set aside moneys in the fund for the purposes of paying costs

1 necessary to protect the state's position as a lender-creditor. These
2 costs shall include, but not be limited to, foreclosure expenses,
3 environmental reports, auction fees, title searches, appraisals, real
4 estate brokerage fees, attorney fees, mortgage payments, insurance
5 payments, utility costs, repair costs, removal and storage costs for
6 repossessed equipment and inventory, and expenditures to purchase
7 a senior lien in foreclosure or bankruptcy proceedings.

8 *SEC. 454. Section 48204 of the Public Resources Code is*
9 *amended to read:*

10 48204. Loans made pursuant to this chapter shall be subject to
11 all of the following requirements:

12 (a) The terms of any approved loan shall be specified in a loan
13 agreement between the borrower and the ~~board~~ *Department of*
14 *Toxics and Waste Management*. All money received as repayment
15 on a loan shall be deposited in the fund.

16 (b) The ~~board~~ *Department of Toxics and Waste Management*
17 shall approve only those loan applications that demonstrate the
18 applicant's financial ability to repay the loan.

19 (c) Loans may be made only to applicants who are using trust
20 funds or enterprise funds as financial assurance mechanisms to
21 finance landfill closure and postclosure maintenance and who are
22 in compliance with financial assurance requirements for landfill
23 closure and post-closure maintenance.

24 (d) The term of any loan made pursuant to this section shall be
25 not more than 10 years.

26 (e) The interest rate of any loan made pursuant to this section
27 may be zero percent.

28 (f) The ~~board~~ *Department of Toxics and Waste Management*
29 may not finance more than five hundred thousand dollars
30 (\$500,000) for each landfill closure project.

31 (g) The Department of Finance may audit the expenditure of
32 the proceeds of any loan made pursuant to this chapter.

33 *SEC. 455. Section 48205 of the Public Resources Code is*
34 *amended to read:*

35 48205. The ~~board~~ *Department of Toxics and Waste*
36 *Management*, the California Pollution Control Financing Authority,
37 the Treasurer, and other appropriate state officers and agencies
38 shall, to the extent feasible and as appropriate, coordinate activities
39 that will leverage financing for the program and encourage joint
40 activities to protect the public health and the environment.

1 *SEC. 456. Section 48206 of the Public Resources Code is*
2 *amended to read:*

3 48206. ~~The—board~~ *Department of Toxics and Waste*
4 *Management shall adopt regulations to implement this chapter.*

5 *SEC. 457. Section 48502 of the Public Resources Code is*
6 *repealed.*

7 ~~48502. Notwithstanding any other provision of law, the powers~~
8 ~~and duties of the Department of Toxic Substances Control pursuant~~
9 ~~to Chapter 6.5 (commencing with Section 25100) of Division 20~~
10 ~~of the Health and Safety Code, including those concerning the~~
11 ~~issuance of permits for hazardous waste disposal sites, enforcement~~
12 ~~activities related to the handling, transportation, storage, use,~~
13 ~~processing, and disposal of hazardous wastes, and the development~~
14 ~~of programs for the recycling and recovery of resources from~~
15 ~~hazardous wastes, shall not be assumed or duplicated by the board~~
16 ~~pursuant to its responsibilities, powers, and duties provided in this~~
17 ~~division.~~

18 *SEC. 458. Section 48632 of the Public Resources Code is*
19 *amended to read:*

20 48632. ~~The—board~~ *Department of Toxics and Waste*
21 *Management may issue grants or loans pursuant to subdivision (b)*
22 *of Section 48631 for only the following purposes:*

23 (a) To local governments for providing opportunities for used
24 lubricating oil collection, which are in addition to those included
25 in the local used oil collection programs adopted pursuant to Article
26 10 (commencing with Section 48690). Grants or loans under this
27 subdivision may also be for those purposes identified in subdivision
28 (d).

29 (b) To nonprofit entities for projects, which may include one
30 or more of the following programs or activities:

31 (1) Establishing used lubricating oil collection centers.

32 (2) Providing containers and other materials and supplies that
33 the public can utilize in an environmentally sound manner to store
34 used lubricating oil for pickup or return to a used oil collection
35 center.

36 (3) Obtaining equipment and establishing procedures to comply
37 with federal, state, and local law regarding the collection, handling,
38 and storage of used oil.

39 (4) For the purposes identified in subdivision (d).

40 (c) For either or both of the following purposes:

1 (1) Research, testing, and demonstration projects for collection
2 technologies and to develop uses for products resulting from the
3 recycling of used oil.

4 (2) The purposes identified in subdivision (d).

5 (d) (1) For education and mitigation projects relating to
6 stormwater pollution from used oil and oil byproducts, including,
7 but not limited to, use of storm drain inlet filter devices.

8 (2) A local government shall not receive a grant or loan pursuant
9 to this section for any purpose identified in paragraph (1) unless
10 the local government certifies that it has a stormwater management
11 program that is approved by the appropriate California regional
12 water quality control board and that the project approved for
13 funding under paragraph (1) is consistent with that approved
14 stormwater management program.

15 *SEC. 459. Section 48634 of the Public Resources Code is*
16 *amended to read:*

17 48634. In adopting the program required by this article, the
18 ~~board~~ *Department of Toxics and Waste Management* shall consider
19 information developed pursuant to the Used Oil Collection
20 Demonstration Grant Program Act of 1990 (Chapter 1.5
21 (commencing with Section 3475) of Division 3).

22 *SEC. 460. Section 48640 of the Public Resources Code is*
23 *amended to read:*

24 48640. The ~~board~~ *Department of Toxics and Waste*
25 *Management* shall administer this chapter. For organizational
26 purposes, the ~~board~~ *Department of Toxics and Waste Management*
27 may create a new division, bureau, office, or unit to administer
28 this chapter.

29 *SEC. 461. Section 48641 of the Public Resources Code is*
30 *amended to read:*

31 48641. In addition to any other regulations which the ~~board~~
32 *Department of Toxics and Waste Management* is required by statute
33 to adopt, the ~~board~~ *Department of Toxics and Waste Management*
34 may adopt any other rules and regulations pursuant to Chapter 3.5
35 (commencing with Section 11340) of Part 1 of Division 3 of Title
36 2 of the Government Code which the ~~board~~ *Department of Toxics*
37 *and Waste Management* determines may be necessary or useful
38 to carry out this chapter or any of the ~~board's~~ *Department of Toxics*
39 *and Waste Management's* duties or responsibilities imposed
40 pursuant to this chapter.

1 *SEC. 462. Section 48642 of the Public Resources Code is*
2 *amended to read:*

3 48642. The ~~board~~ Department of Toxics and Waste
4 Management may prepare, publish, or issue printed pamphlets,
5 which the ~~board~~ Department of Toxics and Waste Management
6 determines to be necessary, for the dissemination of information
7 concerning the activities of the ~~board~~ Department of Toxics and
8 Waste Management pursuant to this chapter.

9 *SEC. 463. Section 48643 of the Public Resources Code is*
10 *amended to read:*

11 48643. In carrying out this chapter, the ~~board~~ Department of
12 Toxics and Waste Management may solicit and use any and all
13 expertise available in other state agencies, including, but not limited
14 to, the State Board of Equalization, and, where an existing state
15 agency performs functions of a similar nature to the ~~board's~~
16 Department of Toxics and Waste Management's functions, the
17 ~~board~~ Department of Toxics and Waste Management may contract
18 with or cooperate with that agency in carrying out this chapter.

19 *SEC. 464. Section 48644 of the Public Resources Code is*
20 *amended to read:*

21 48644. The ~~board~~ Department of Toxics and Waste
22 Management shall maintain access to a toll-free telephone number
23 which is to be used for the purpose of informing callers of the
24 following:

25 (a) The permissible methods of recycling or disposing of used
26 oil.

27 (b) Specific establishments located in the area of the caller that
28 have notified the ~~board~~ Department of Toxics and Waste
29 Management that they accept used oil.

30 *SEC. 465. Section 48645 of the Public Resources Code is*
31 *amended to read:*

32 48645. Final approval of applicant and project eligibility
33 standards, scoring and evaluation processes, and awarding of loans
34 or grants under this chapter shall be made in a public meeting of,
35 and pursuant to a vote of, the approval of the ~~board~~ Department
36 of Toxics and Waste Management.

37 *SEC. 466. Section 48650 of the Public Resources Code is*
38 *amended to read:*

39 48650. (a) Every oil manufacturer shall pay to the ~~board~~
40 Department of Toxics and Waste Management, on or before the

1 last day of the month following each quarter, an amount equal to
2 four cents (\$0.04) for every quart, or sixteen cents (\$0.16) for every
3 gallon, of lubricating oil sold or transferred in the state, or imported
4 into the state for use in the state in that quarter. For lubricating oil
5 sold by weight, a weight to volume conversion factor of 7.5 pounds
6 per gallon shall be used to determine the fee. Except as provided
7 in subdivision (b), no payment is required for oil which meets any
8 of the following:

9 (1) Oil for which a payment has already been made to the ~~board~~
10 *Department of Toxics and Waste Management* pursuant to this
11 section.

12 (2) Oil exported or sold for export from the state.

13 (3) Oil sold for use in vessels operated in interstate or foreign
14 commerce.

15 (4) Oil imported into the state in the engine crankcase,
16 transmission, gear box, or differential of an automobile, bus, truck,
17 vessel, plane, train, or heavy equipment or machinery.

18 (5) Bulk oil imported into, transferred in, or sold in the state to
19 a motor carrier, as defined in Section 408 of the Vehicle Code,
20 and used in a vehicle designated in subdivisions (a) and (b) of
21 Section 34500 of the Vehicle Code.

22 (6) The oil otherwise subject to payment pursuant to this
23 subdivision has a volume of five gallons or less.

24 (b) If oil exempted from payment pursuant to subdivision (a)
25 is subsequently sold or transferred for use, or is used, in this state,
26 and the use does not qualify for exemption pursuant to subdivision
27 (a), the entity which sells, transfers, or uses the oil for a purpose
28 which is not exempt from payment, shall make the payment
29 specified in subdivision (a).

30 (c) This section shall become operative on January 1, 2000.

31 *SEC. 467. Section 48650.2 of the Public Resources Code is*
32 *amended to read:*

33 48650.2. For the purposes of this chapter, the ~~board~~ *Department*
34 *of Toxics and Waste Management* may collect the fees pursuant
35 to the Fee Collection Procedures Law (Part 30 (commencing with
36 Section 55001) of Division 2 of the Revenue and Taxation Code).

37 *SEC. 468. Section 48650.5 of the Public Resources Code is*
38 *amended to read:*

39 48650.5. (a) Any person who has made a payment pursuant
40 to Section 48650 on lubricating oil exempted from payment

1 pursuant to subdivision (a) of Section 48650, and the payment was
2 made either directly to the ~~board~~ *Department of Toxics and Waste*
3 *Management*, or indirectly to a vendor from whom it was
4 purchased, by the adding of the amount of the payment to the price
5 of the lubricating oil, shall be reimbursed and repaid the amount
6 of the payment made on that oil, except as otherwise provided in
7 this section.

8 (b) The claimant of a refund shall present to the ~~board~~
9 *Department of Toxics and Waste Management* a claim supported
10 by the original invoice showing the purchase. The claim shall state
11 the total amount of the lubricating oil purchased by the claimant
12 and the manner and the equipment in which the claimant has used
13 the lubricating oil. The claim shall not be under oath but shall
14 contain, or be accompanied by, a written declaration that it is made
15 under the penalty of perjury.

16 (c) The ~~board~~ *Department of Toxics and Waste Management*,
17 upon the presentation of the claim and the invoice, shall pay the
18 claimant from the payments collected under Section 48650 an
19 amount equal to the payments collected on the lubricating oil in
20 respect to which the refund is claimed.

21 (d) Any person who willfully makes or subscribes to a claim
22 for refund under this section which the person does not believe to
23 be true and correct as to every material matter is guilty of a felony,
24 and upon conviction thereof shall be subject to the penalties
25 prescribed for perjury by the Penal Code. All applications for
26 refund under this section based upon the exportation of lubricating
27 oil from this state shall be filed with the ~~board~~ *Department of*
28 *Toxics and Waste Management* within the three months after the
29 close of the calendar month in which the lubricating oil is exported
30 or 13 months from the date of the purchase of the lubricating oil,
31 whichever is later. Any application filed after the prescribed time
32 shall not be considered by the ~~board~~ *Department of Toxics and*
33 *Waste Management* or any other agency or officer of the state for
34 any purpose.

35 (e) In lieu of the collection and refund of the payment on
36 lubricating oil used by a manufacturer in a manner that entitles a
37 purchaser to claim a refund under this section, the ~~board~~
38 *Department of Toxics and Waste Management* may give a credit
39 to the manufacturer upon the filing of a return and the
40 determination of the amount of the fee.

(f) In lieu of the collection and refund of the payment on lubricating oil exported by a licensed manufacturer for use outside the state in a manner that entitles a manufacturer to claim a refund pursuant to this section, ~~the board~~ *Department of Toxics and Waste Management* may give a credit to the distributor upon his or her payment return and the determination of the amount of his or her payment, in accordance with such rules and regulations as the ~~board~~ *Department of Toxics and Waste Management* may prescribe.

(g) When an amount represented by a person to a customer as constituting reimbursement for fees due under this chapter is computed upon an amount that is not subject to that fee, or is in excess of that fee amount due, and is actually paid by the customer to the person, the amount so paid shall be returned by the person to the customer, upon notification by the ~~board~~ *Department of Toxics and Waste Management* or by the customer that the excess has been ascertained. If the person fails or refuses to return that amount, the person shall remit to the ~~board~~ *Department of Toxics and Waste Management* the amount so paid, if the amount was knowingly or mistakenly computed by the person upon an amount that is not subject to the fee, or is in excess of the fee due.

SEC. 469. Section 48651 of the Public Resources Code is amended to read:

48651. (a) The ~~board~~ *Department of Toxics and Waste Management* shall pay a recycling incentive to every industrial generator, curbside collection program, and certified used oil collection center, for used lubricating oil collected from the public, or generated by the certified used oil collection center or the industrial generator, and transported by a used oil hauler to the facilities specified in Section 48623.

(b) The ~~board~~ *Department of Toxics and Waste Management* shall pay a recycling incentive to an electric utility, as defined in Section 25108, for used lubricating oil generated and used by the electric utility for electrical generation if the electric utility's use of the used lubricating oil meets the requirements of subparagraph (C) of paragraph (2) of subdivision (d) of Section 25143.2 of the Health and Safety Code and the used oil is in compliance with the standards for recycled oil established in paragraph (3) of subdivision (a) of Section 25250.1 of the Health and Safety Code.

(c) A person or entity that generates used industrial oil or a used oil storage facility or a used oil transfer facility that accepts used

1 oil shall cause that oil to be transported by a used oil hauler to a
2 certified used oil recycling facility or an out-of-state recycling
3 facility registered with the Environmental Protection Agency and
4 operating in substantial compliance with applicable regulatory
5 standards of the state in which the recycling facility is located.

6 *SEC. 470. Section 48652 of the Public Resources Code is*
7 *amended to read:*

8 48652. The ~~board~~ Department of Toxics and Waste
9 Management shall set the recycling incentive amount at not less
10 than four cents (\$0.04) per quart. The amount may be set at an
11 amount higher than four cents (\$0.04) if the ~~board~~ Department of
12 Toxics and Waste Management determines that a higher amount
13 is necessary to promote recycling of used lubricating oil and
14 sufficient funds are available in the fund. The ~~board~~ Department
15 of Toxics and Waste Management shall not change the amount of
16 the recycling incentive until at least one year has passed since the
17 amount was last set. The ~~board~~ Department of Toxics and Waste
18 Management shall continue providing recycling incentives to
19 certified used oil collection centers at the previous rate for one
20 month after setting the recycling incentive at a different rate. The
21 ~~board~~ Department of Toxics and Waste Management shall not raise
22 the recycling incentive amount unless it finds that the raise will
23 not adversely affect funding required pursuant to Sections 48631,
24 48653, and 48660.5.

25 *SEC. 471. Section 48653 of the Public Resources Code is*
26 *amended to read:*

27 48653. The ~~board~~ Department of Toxics and Waste
28 Management shall deposit all amounts paid pursuant to Section
29 48650 by manufacturers, civil penalties, or fines paid pursuant to
30 this chapter, and all other revenues received pursuant to this chapter
31 into the California Used Oil Recycling Fund, which is hereby
32 created in the State Treasury. Notwithstanding Section 13340 of
33 the Government Code, the money in the fund is to be appropriated
34 solely as follows:

35 (a) Continuously appropriated to the ~~board~~ Department of Toxics
36 and Waste Management for expenditure for the following purposes:

- 37 (1) To pay recycling incentives pursuant to Section 48651.
38 (2) To provide a reserve for contingencies, as may be available
39 after making other payments required by this section, in an amount
40 not to exceed one million dollars (\$1,000,000).

(3) To make block grants for the implementation of local used oil collection programs adopted pursuant to Article 10 (commencing with Section 48690) to cities, based on the city's population, and counties, based on the population of the unincorporated area of the county, in a total annual amount equal to ten million dollars (\$10,000,000) or half of the amount which remains in the fund after the expenditures are made pursuant to paragraphs (1) to (3), inclusive, and subdivision (b), whichever amount is greater, multiplied by the fraction equal to the population of cities and counties which are eligible for block grants pursuant to Section 48690, divided by the population of the state. The ~~board~~ *Department of Toxics and Waste Management* shall use the latest population estimates of the state generated by the Population Research Unit of the Department of Finance in making the calculations required by this paragraph.

(4) For expenditures pursuant to Section 48656.

(b) The money in the fund may be expended by the ~~board~~ *Department of Toxics and Waste Management* for the administration of this chapter and by the department for inspections and reports pursuant to Section 48661, only upon appropriation by the Legislature in the annual Budget Act.

(c) The money in the fund may be transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account in the General Fund, upon appropriation by the Legislature in the annual Budget Act, to pay the costs associated with implementing and operating the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100).

(d) Appropriations to the ~~board~~ *Department of Toxics and Waste Management* to pay the costs necessary to administer this chapter, including implementation of the reporting, monitoring, and enforcement program pursuant to subdivision (d) of Section 48631, shall not exceed three million dollars (\$3,000,000) annually.

(e) The Legislature hereby finds and declares its intent that the sum of two hundred fifty thousand dollars (\$250,000) should be annually appropriated from the California Used Oil Recycling Fund in the annual Budget Act to the ~~board~~ *Department of Toxics and Waste Management*, commencing with fiscal year 1996–97, for the purposes of Section 48655.

1 *SEC. 472. Section 48655 of the Public Resources Code is*
2 *amended to read:*

3 48655. The ~~board~~ *Department of Toxics and Waste*
4 *Management* may enter into a contract with the department that
5 will utilize the resources of the department to provide for greater
6 investigation and enforcement efforts for used lubricating oil
7 handling and storage and transfer facility operations. The
8 department shall assist the ~~board~~ *Department of Toxics and Waste*
9 *Management* in developing the used oil program and providing
10 assistance to local governments in removing barriers to the
11 establishment of used oil collection programs.

12 *SEC. 473. Section 48656 of the Public Resources Code is*
13 *amended to read:*

14 48656. After all of the expenditures pursuant to Section 48653
15 have been made, notwithstanding paragraph (4) of subdivision (a)
16 of Section 48653, the balance remaining in the fund shall be
17 available to the ~~board~~ *Department of Toxics and Waste*
18 *Management* for expenditure solely for the implementation of
19 subdivisions (b) and (c) of Section 48631 and Sections 48632 and
20 48660.5. The ~~board~~ *Department of Toxics and Waste Management*
21 shall not expend more than two hundred thousand dollars
22 (\$200,000) to implement Section 48660.5 and at least 40 percent
23 of the money remaining in the fund shall be expended for the
24 purposes of subdivision (a) of Section 48632, at least 10 percent
25 shall be expended for the purposes of subdivision (b) of Section
26 48632, at least 20 percent shall be expended for the purposes of
27 subdivision (c) of Section 48631, and at least 10, but not more
28 than 15, percent shall be expended for the purposes of subdivision
29 (c) of Section 48632.

30 *SEC. 474. Section 48657 of the Public Resources Code is*
31 *amended to read:*

32 48657. The ~~board~~ *Department of Toxics and Waste*
33 *Management* shall keep accurate books, records, and accounts of
34 all of its dealings, and these books, records, and accounts, and any
35 amounts paid into or from the fund, are subject to an annual audit
36 by an auditing firm selected by the ~~board~~ *Department of Toxics*
37 *and Waste Management*. The auditing firm or the ~~board~~
38 *Department of Toxics and Waste Management* shall also conduct
39 a selective audit of entities making payments to, or receiving
40 payments from, the ~~board~~ *Department of Toxics and Waste*

1 *Management* to determine whether payments required by Section
2 48650 are being paid to the ~~board~~ *Department of Toxics and Waste*
3 *Management* on all lubricating oil sold in California, and that
4 grants and recycling incentives are being paid out properly by the
5 ~~board~~ *Department of Toxics and Waste Management*.

6 SEC. 475. Section 48660 of the *Public Resources Code* is
7 amended to read:

8 48660. (a) No used oil collection center shall be eligible for
9 the payment of recycling incentives until the ~~board~~ *Department*
10 *of Toxics and Waste Management* has certified that the center is
11 in compliance with the requirements specified in subdivision (b).
12 Before certification, the ~~board~~ *Department of Toxics and Waste*
13 *Management* may require the center to submit any information
14 that the ~~board~~ *Department of Toxics and Waste Management*
15 determines is necessary to find that the center is in compliance
16 with those requirements. A center shall reapply for certification
17 every two years. The ~~board~~ *Department of Toxics and Waste*
18 *Management* may cancel the certification of a center if the ~~board~~
19 *Department of Toxics and Waste Management* finds, after a public
20 hearing, that the center is not, or has not been, in compliance with
21 subdivision (b). The ~~board~~ *Department of Toxics and Waste*
22 *Management* may withhold the payment of recycling incentives
23 for used lubricating oil collected by a center if the ~~board~~
24 *Department of Toxics and Waste Management* finds that the center
25 was not in compliance with subdivision (b) during the time in
26 which the used lubricating oil was collected.

27 (b) To be eligible for certification by the ~~board~~ *Department of*
28 *Toxics and Waste Management* and for the payment of recycling
29 incentives, the used oil collection center shall do all of the
30 following:

31 (1) (A) Accept used lubricating oil from the public at no charge
32 during the hours between 8 a.m. and 8 p.m. that the entity operating
33 as the center is open for business.

34 (B) The ~~board~~ *Department of Toxics and Waste Management*
35 may approve alternative hours for the acceptance of used
36 lubricating oil by an individual center if either of the following
37 conditions is met:

38 (i) The center accepts used lubricating oil for 12 continuous
39 hours daily.

1 (ii) The center demonstrates that compliance with Section 279.31
2 of Title 40 of the Code of Federal Regulations prevents the center
3 from complying with subparagraph (A).

4 (2) Pay to any person an amount equal to the recycling incentive
5 which the center will receive for used lubricating oil brought to
6 the center in containers by the person. Nothing in this chapter
7 prohibits any person from donating used lubricating oil to a center.
8 With the exception of centers that generate used lubricating oil by
9 servicing motor vehicles, the recycling incentive may be in the
10 form of a credit that may be applied toward the purchase of goods
11 or services offered by the center, as determined by the ~~board~~
12 *Department of Toxics and Waste Management*. The credit shall
13 be in the form of a voucher or coupon with a value of at least twice
14 the incentive amount to be paid pursuant to Section 48652 and
15 have no other limits for use, unless prescribed by the ~~board~~
16 *Department of Toxics and Waste Management*.

17 (3) Provide information to the ~~board~~ *Department of Toxics and*
18 *Waste Management* for informing the public of the center's
19 acceptance of used lubricating oil.

20 (4) Provide notice to the public, through onsite signs and
21 periodic advertising in local media, of the center's acceptance of
22 used lubricating oil from the public.

23 (A) Onsite signs shall be of a design prescribed by the ~~board~~
24 *Department of Toxics and Waste Management* and exterior signs
25 shall be posted in a location that is easily visible from a public
26 street.

27 (B) A certified center shall post a combined symbolic and
28 information exterior sign of at least two feet by three feet in size,
29 or shall post an exterior symbolic sign of at least two feet by 18
30 inches in size. If the exterior symbolic sign is posted, the combined
31 symbolic and informational sign shall be concurrently posted so
32 that it is easily readable from the location where the used oil is
33 received from the public. The exterior symbolic sign shall include
34 the following words in a manner specified by the ~~board~~ *Department*
35 *of Toxics and Waste Management*: "Used Oil Collection Center."

36 (C) The informational portion of the combined signs shall
37 include the following words, in a manner specified by the ~~board~~
38 *Department of Toxics and Waste Management*: "Used Oil
39 Collection Center—Recycling Incentive Paid for Used Lubricating

1 Oil in Containers During Business Hours from Members of the
2 Public Who Change Their Own Oil.”

3 (D) A center that does not accept used lubricating oil from the
4 public during all of its business hours, but meets the requirements
5 of paragraph (1), shall indicate on the exterior sign the hours when
6 that used oil is accepted at no charge from the public and these
7 hours shall be posted instead of the business hours.

8 (E) If local zoning ordinances prevent signs of a size consistent
9 with this paragraph, the exterior symbolic sign shall be of the
10 maximum allowable size.

11 (c) Notwithstanding subdivision (b), a used oil collection center
12 may refuse to accept used lubricating oil which has been
13 contaminated in a manner other than that which would occur
14 through normal use.

15 (d) Notwithstanding subdivision (b), no used oil collection center
16 shall knowingly accept used lubricating oil for which a payment
17 has not been made pursuant to Section 48650.

18 *SEC. 476. Section 48660.5 of the Public Resources Code is*
19 *amended to read:*

20 48660.5. (a) If the ~~board~~ *Department of Toxics and Waste*
21 *Management* finds that a shipment of used oil from a certified used
22 oil collection center or a curbside collection program is
23 contaminated by hazardous materials in excess of that which
24 generally occurs in normal use, which renders the used oil
25 infeasible for recycling, and requires that the used oil be destroyed
26 at a substantially higher cost than the cost generally to recycle used
27 oil, the ~~board~~ *Department of Toxics and Waste Management* shall,
28 upon application by the used oil collection center or curbside
29 collection program, reimburse the center or program for the
30 additional disposal cost, subject to the eligibility requirements of
31 subdivision (b), except as provided in subdivision (c).

32 (b) A certified used oil collection center or curbside collection
33 program is eligible for reimbursement only if it demonstrates to
34 the satisfaction of the ~~board~~ *Department of Toxics and Waste*
35 *Management* all of the following:

36 (1) The center or program has established procedures to ensure
37 that the used oil it generates and accepts from the public will not
38 be mixed with other hazardous wastes, especially halogenated
39 wastes. These procedures shall include, but not be limited to,
40 instructing the public and employees that used oil shall not be

1 mixed with other hazardous waste. The ~~board~~ *Department of Toxics*
2 *and Waste Management* shall not require a center or program to
3 test used oil received from the public as part of these procedures.

4 (2) The shipment contains not more than five gallons or pounds
5 of contaminants combined, based on the contaminant
6 concentrations and the total volume or weight of the shipment.

7 (c) In any calendar year, a used oil collection center or curbside
8 collection program shall be reimbursed for not more than one
9 shipment and for not more than five thousand dollars (\$5,000) in
10 disposal costs, subject to the availability of funds pursuant to
11 Section 48656.

12 *SEC. 477. Section 48661 of the Public Resources Code is*
13 *amended to read:*

14 48661. (a) On and after July 1, 1992, the department shall
15 annually inspect used oil recycling facilities.

16 (b) Within 135 days following inspection, the department shall
17 submit a report to the ~~board~~ *Department of Toxics and Waste*
18 *Management*, describing all of the following:

19 (1) Any violations of Chapter 6.5 (commencing with Section
20 25100) of Division 20 of the Health and Safety Code.

21 (2) Any corrective actions ordered or agreed to by the
22 department.

23 (3) Progress by the facility in correcting violations identified in
24 previous inspections.

25 (c) In the report required by subdivision (b), the department
26 shall specifically state whether any of the following occurred:

27 (1) The department has identified violations of subdivision (c)
28 of Section 25250.1 of the Health and Safety Code regarding
29 achievement of minimum standards of purity for recycled oil.

30 (2) The department has identified violations of regulations
31 requiring financial responsibility assurance for liability, closure,
32 and postclosure obligations.

33 (3) Where prior contamination has been identified, the facility
34 has an approved corrective action plan and has not been found to
35 be in violation of its requirements.

36 (4) The department has identified violations that meet the criteria
37 for class 1 violations, as defined in Section 66260.10 of Title 22
38 of the California Code of Regulations.

39 *SEC. 478. Section 48662 of the Public Resources Code is*
40 *amended to read:*

1 48662. The ~~board~~ *Department of Toxics and Waste*
2 *Management* shall certify or recertify any used oil recycling facility
3 for which the ~~board~~ *has received Department of Toxics and Waste*
4 *Management has prepared* a report ~~from the department~~ pursuant
5 to Section 48661, unless the ~~board~~ *Department of Toxics and Waste*
6 *Management* determines that the facility is engaged in a repeating
7 or recurring pattern of noncompliance that poses a significant threat
8 to public health and safety or the environment. If the ~~board~~
9 *Department of Toxics and Waste Management* denies certification,
10 the ~~board~~ *Department of Toxics and Waste Management* may
11 subsequently certify a facility if it determines that the facility meets
12 the standards for certification.

13 *SEC. 479. Section 48670 of the Public Resources Code is*
14 *amended to read:*

15 48670. To be eligible for payment of a recycling incentive, an
16 industrial generator of used lubricating oil, a used oil collection
17 center, or a curbside collection program shall report to the ~~board~~
18 *Department of Toxics and Waste Management*, for each quarter,
19 the amount of lubricating oil purchased and the amount of used
20 lubricating oil that is transported to a certified used oil recycling
21 facility, or to a used oil storage facility or to a used oil transfer
22 facility, or that is transported to an out-of-state recycling facility
23 registered with the Environmental Protection Agency and permitted
24 to operate by the applicable regulatory agency of the state in which
25 the facility is located, or that is used to generate electricity pursuant
26 to subdivision (b) of Section 48651. The reports shall be submitted
27 on or before the 45th day following each quarter, in the form and
28 manner which the ~~board~~ *Department of Toxics and Waste*
29 *Management* may prescribe, and shall include copies of manifests
30 or modified manifest receipts from used oil haulers. The ~~board~~
31 *Department of Toxics and Waste Management* may delegate to
32 the executive officer of the ~~board~~ *Department of Toxics and Waste*
33 *Management* the authority to accept reports submitted after the
34 45th day and to reduce, eliminate, or approve the amount of
35 incentive fee to be paid due to the late submission of the report.
36 The ~~board~~ *Department of Toxics and Waste Management* may
37 provide, by regulation, for a longer reporting period for industrial
38 generators that generate less than 1,000 gallons of used oil
39 annually.

1 *SEC. 480. Section 48671 of the Public Resources Code is*
2 *amended to read:*

3 48671. Every oil manufacturer who sells, or offers to sell,
4 lubricating or industrial oil in this state shall report to the ~~board~~
5 *Department of Toxics and Waste Management* for each month the
6 amount of lubricating or industrial oil sold. The reports shall be
7 submitted by the day when payment required by Section 48650 is
8 or would be due, in the form and manner which the ~~board~~
9 *Department of Toxics and Waste Management* may prescribe.
10 However, an oil manufacturer is not required to report to the ~~board~~
11 *Department of Toxics and Waste Management* when the total
12 volume of oil to be reported is five gallons or less.

13 *SEC. 481. Section 48671.5 of the Public Resources Code is*
14 *amended to read:*

15 48671.5. The manufacturer of every container that contains
16 lubricating oils or industrial oils, and which is intended for sale to
17 consumers in California, shall do either of the following:

18 (a) Label the containers in at least seven-point typeface as
19 follows:

20
21 “Used oil is generally classified as a hazardous waste in
22 California. Do not dispose of used oil in garbage, sewers, or the
23 ground. To find out how to properly recycle used oil in your area,
24 call (800) ____.”

25
26 The toll-free telephone number on the label shall be the number
27 maintained by the ~~board~~ *Department of Toxics and Waste*
28 *Management* pursuant to Section 48644.

29 (b) Provide signs or other written material to retailers appropriate
30 for informing consumers of the information that would otherwise
31 be contained in the label set forth in paragraph (a).

32 *SEC. 482. Section 48672 of the Public Resources Code is*
33 *amended to read:*

34 48672. Beginning ~~May 1, 1992~~ *January 1, 2010*, every used
35 oil hauler shall report to the ~~board~~ *Department of Toxics and Waste*
36 *Management* for each quarter the amount of used oil transported,
37 the location to which it is transported, and the source of the used
38 oil. The hauler shall provide estimates, where feasible, of the
39 amount which is used lubricating oil and the amount which is used
40 industrial oil. The reports shall be submitted on or before the last

1 day of the month following each quarter, in the form and manner
2 which the ~~board~~ *Department of Toxics and Waste Management*
3 may prescribe.

4 *SEC. 483. Section 48673 of the Public Resources Code is*
5 *amended to read:*

6 48673. Beginning July 1, 1992, every used oil recycling facility
7 shall report to the ~~board~~ *Department of Toxics and Waste*
8 *Management* for each quarter the amount of used oil received and
9 the amount of recycled oil produced. The facility shall provide
10 estimates, where feasible, of the amount which is used lubricating
11 oil and the amount which is used industrial oil. The reports shall
12 be submitted on or before the last day of the month following each
13 quarter, in the form and manner which the ~~board~~ *Department of*
14 *Toxics and Waste Management* may prescribe.

15 *SEC. 484. Section 48674 of the Public Resources Code is*
16 *amended to read:*

17 48674. After receiving a block grant pursuant to paragraph (4)
18 of subdivision (a) of Section 48653, each local government shall
19 submit an annual report to the ~~board~~ *Department of Toxics and*
20 *Waste Management*, on or before the date specified by the ~~board~~
21 *Department of Toxics and Waste Management*, which includes
22 any amendments to the local used oil collection program adopted
23 pursuant to Section 48690, a description of all measures taken to
24 implement the program, and a description of how the block grant
25 was expended.

26 *SEC. 485. Section 48675 of the Public Resources Code is*
27 *amended to read:*

28 48675. The ~~board~~ *Department of Toxics and Waste*
29 *Management* shall establish procedures to protect any proprietary
30 information concerning sales, purchases, and operations obtained
31 while collecting information for carrying out this chapter.

32 *SEC. 486. Section 48676 of the Public Resources Code is*
33 *amended to read:*

34 48676. The ~~board~~ *Department of Toxics and Waste*
35 *Management* shall establish reporting periods for the reporting of
36 accumulated industrial and lubricating oil sales and used oil
37 recycling rates, and each reporting period shall be six months. The
38 ~~board~~ *Department of Toxics and Waste Management* shall issue a
39 report based on the information received within 120 days of the
40 end of each reporting period.

1 *SEC. 487. Section 48680 of the Public Resources Code is*
2 *amended to read:*

3 48680. (a) Except as provided in subdivision (b), in addition
4 to any other civil or criminal penalties, any person convicted of a
5 violation of this chapter is guilty of an infraction, which is
6 punishable by a fine of not more than one hundred dollars (\$100)
7 per day for each day the violation occurs.

8 (b) (1) Every person who, with intent to defraud, does not
9 accurately report the amount of oil sold, collected, or transferred
10 pursuant to Article 8 (commencing with Section 48670), who, with
11 intent to defraud, does not make payments as required by Section
12 48650, or who knowingly receives or pays a recycling incentive
13 for oil upon which a payment has not been made pursuant to
14 Section 48650 is guilty of fraud. If the money obtained or withheld
15 is four hundred dollars (\$400) or less, the fraud is punishable by
16 imprisonment in the county jail for not more than six months, by
17 a fine of not more than one thousand dollars (\$1,000), or by both
18 that fine and imprisonment. If the money obtained or withheld is
19 more than four hundred dollars (\$400), the fraud is punishable by
20 imprisonment in the county jail for not more than one year or
21 imprisonment in the state prison, by a fine not exceeding ten
22 thousand dollars (\$10,000), or twice the late or unmade payments
23 plus interest, whichever is greater, or by both that fine and
24 imprisonment.

25 (2) Any person who claims an exemption pursuant to this chapter
26 which the person knows to be false, and makes that claim for the
27 purpose of willfully evading the payment of any fee imposed
28 pursuant to this chapter, is guilty of a misdemeanor punishable by
29 imprisonment in the county jail for not more than one year. The
30 person shall also be subject to payment of a fine not to exceed five
31 thousand dollars (\$5,000). The fine shall be distributed as follows:

32 (A) Fifty percent to the local jurisdiction which undertook the
33 prosecution.

34 (B) Fifty percent to the General Fund.

35 (c) Any person who violates this chapter may be assessed a civil
36 penalty by the ~~board~~ *Department of Toxics and Waste Management*
37 of not more than one hundred dollars (\$100) per day for each day
38 the violation occurs or continues, pursuant to a hearing and notice.

39 *SEC. 488. Section 48690 of the Public Resources Code is*
40 *amended to read:*

1 48690. A local government is eligible for a block grant pursuant
2 to paragraph (3) of subdivision (a) of Section 48653, if it develops
3 and submits a local used oil collection program to the ~~board~~
4 *Department of Toxics and Waste Management* pursuant to Section
5 48691 and files a report pursuant to Section 48674. The ~~board~~
6 *Department of Toxics and Waste Management* shall make a grant
7 to every local government that submits a program and files a report
8 unless the ~~board~~ *Department of Toxics and Waste Management*
9 finds that the program or its implementation does not comply with
10 criteria contained in this article. The ~~board~~ *Department of Toxics*
11 *and Waste Management* may make a block grant to another entity
12 that will implement the program of a local government in lieu of
13 making a block grant to that local government with the concurrence
14 of that local government.

15 *SEC. 489. Section 50000 of the Public Resources Code is*
16 *amended to read:*

17 50000. (a) Until an integrated waste management plan has
18 been approved by the ~~California Integrated Waste Management~~
19 ~~Board~~ *Department of Resources Recycling and Recovery*, in
20 consultation with the *Department of Toxics and Waste*
21 *Management*, pursuant to Division 30 (commencing with Section
22 40000), no person shall establish a new solid waste facility or
23 transformation facility or expand an existing solid waste facility
24 or transformation facility that will result in a significant increase
25 in the amount of solid waste handled at the facility without a
26 certification by the enforcement agency that one of the following
27 has occurred:

28 (1) The facility is identified and described in, or found to
29 conform with, a county solid waste management plan that was in
30 compliance with statutes and regulations in existence on December
31 31, 1989, adopted pursuant to former Title 7.3 (commencing with
32 Section 66700) of the Government Code as that former statute
33 read on December 31, 1989. The conformance finding with that
34 plan shall be in accordance with the procedure for a finding of
35 conformance that was set forth in the plan prior to January 1, 1990.

36 (2) The facility is identified and described in the most recent
37 county solid waste management plan that has been approved by
38 the county and by a majority of the cities within the county that
39 contain a majority of the population of the incorporated area of
40 the county, except in those counties that have only two cities, in

1 which case, the plan has been approved by the county and by the
2 city that contains a majority of the population of the incorporated
3 area of the county.

4 (3) Pursuant to the procedures in subdivision (b), the facility
5 has been approved by the county and by a majority of the cities
6 within the county that contain a majority of the population of the
7 incorporated area of the county, except in those counties that have
8 only two cities, in which case, the facility has been approved by
9 the county and by the city that contains a majority of the population
10 of the incorporated area of the county.

11 (4) The facility is a material recovery facility and the site
12 identification and description of the facility have been submitted
13 to the task force created pursuant to Section 40950 for review and
14 comment, pursuant to the procedures set forth in subdivision (c).
15 For purposes of this paragraph, “material recovery facility” means
16 a transfer station that is designed to, and, as a condition of its
17 permit, shall, recover for reuse or recycling at least 15 percent of
18 the total volume of material received by the facility.

19 (5) The facility is identified and described in the countywide
20 siting element that has been approved pursuant to Section 41721.

21 (b) (1) The review and approval of a solid waste facility or
22 transformation facility that has not been identified or described in
23 a county solid waste management plan shall be initiated by
24 submittal by the person or agency proposing the facility of a site
25 identification and description to the county board of supervisors.

26 (2) The county shall submit the site identification and description
27 to each city within the county within 20 days from the date that
28 the site identification and description is submitted to the county
29 board of supervisors. The county and each city shall approve or
30 disapprove by resolution the site identification and description
31 within 90 days from the date that the site identification and
32 description are initially submitted to the county or city. Each city
33 shall notify the county board of supervisors of its decision within
34 that 90-day period. If the county or a city fails to approve or
35 disapprove the site identification and description within 90 days,
36 the city or county shall be deemed to have approved the site
37 identification and description as submitted.

38 (3) If a city or county disapproves the site identification and
39 description, the city or county shall mail notice of its decision by
40 first-class mail to the person or agency requesting the approval

1 within 10 days of the disapproval by the city or county, stating its
2 reasons for the disapproval.

3 (4) No county or city shall disapprove a proposed site
4 identification and description for a new solid waste facility or
5 transformation facility or an expanded solid waste facility or
6 transformation facility that will result in a significant increase in
7 the amount of solid waste handled at the facility unless it
8 determines, based upon substantial evidence in the record, that
9 there will be one or more significant adverse impacts within its
10 boundaries from the proposed project.

11 (5) Within 45 days from the date of a decision by a city or
12 county to disapprove a site identification and description, or a
13 decision by the ~~board~~ *Department of Resources Recycling and*
14 *Recovery or the Department of Toxics and Waste Management*
15 not to concur in the issuance of a permit pursuant to Section 44009,
16 any person may file with the superior court a writ of mandate for
17 review of the decision. The evidence before the court shall consist
18 of the record before the city or county that disapproved the site
19 identification and description or the record before the ~~board~~
20 *Department of Resources Recycling and Recovery or the*
21 *Department of Toxics and Waste Management* in its determination
22 not to concur in issuance of the permit. Section 1094.5 of the Code
23 of Civil Procedure shall govern the proceedings conducted pursuant
24 to this subdivision.

25 (c) To initiate the review and comment by the task force required
26 by paragraph (4) of subdivision (a) and subdivision (d), the person
27 or agency proposing the facility shall submit the site identification
28 and description of the facility to the task force. Within 90 days
29 after the site identification and description are submitted to the
30 task force, the task force shall meet and comment on the facility
31 in writing. Those comments shall include, but are not limited to,
32 the relationship between the proposed new or expanded material
33 recovery facility and the requirements of Section 41780. The task
34 force shall transmit those comments to the applicant, to the county,
35 and to all of the cities in the county.

36 (d) On or before February 1, 1991, each county, by vote of the
37 board of supervisors and the majority of the cities in the county
38 containing a majority of the population of the incorporated area
39 of the county, except in those counties that have only two cities,
40 in which case the vote is subject to approval of the city that

contains a majority of the population of the incorporated area of the county, shall adopt two resolutions after holding a public hearing. One resolution shall address solid waste transfer facilities that are designed to, and, as a condition of their permits, shall, recover for reuse or recycling less than 15 percent of the total volume of material received by the facility and that serve more than one jurisdiction. The second resolution shall address solid waste transfer facilities that are designed to, and, as a condition of their permits, shall, recover for reuse or recycling less than 15 percent of the total volume of material received by the facility and that serve only one jurisdiction. These resolutions shall specify whether the facilities shall be subject to the review and approval process described in subdivision (b) or the review and comment process described in subdivision (c). If the resolutions required by this subdivision are not adopted on or before February 1, 1991, those facilities shall be subject to the review process described in subdivision (c).

For purposes of this subdivision, a facility serves only one jurisdiction if it serves only one city, only the unincorporated area of one county, or only one city and county.

SEC. 490. Section 50000.5 of the Public Resources Code is amended to read:

50000.5. (a) Until a countywide integrated waste management plan has been approved by the ~~California Integrated Waste Management Board~~ *Department of Resources Recycling and Recovery and the Department of Toxics and Waste Management* pursuant to Division 30 (commencing with Section 40000), no person shall establish or expand a solid waste facility or transformation facility unless the city or county in which the site is located makes a finding that the establishment or expansion of the facility is consistent with the applicable general plan of the city or county. This finding shall not be made unless the city or county has adopted a general plan which complies with the provisions of Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(b) In addition to the requirements in subdivision (a), any new or expanded solid waste disposal facility or transformation facility shall be deemed to be consistent with the general plan only if both of the following requirements are met:

1 (1) The facility is located in a land use area designated or
2 authorized for solid waste facilities in the applicable city or county
3 general plan.

4 (2) The land uses which are authorized adjacent to, or near, the
5 facility are compatible with the establishment, or expansion of,
6 the solid waste disposal facility or transformation facility.

7 *SEC. 491. Section 50001 of the Public Resources Code is*
8 *amended to read:*

9 50001. (a) Except as provided by subdivision (b), after a
10 countywide or regional agency integrated waste management plan
11 has been approved by the ~~California Integrated Waste Management~~
12 ~~Board~~ *Department of Resources Recycling and Recovery and the*
13 *Department of Toxics and Waste Management* pursuant to Division
14 30 (commencing with Section 40000), no person shall establish
15 or expand a solid waste facility, as defined in Section 40194, in
16 the county unless the solid waste facility meets one of the following
17 criteria:

18 (1) The solid waste facility is a disposal facility or a
19 transformation facility, the location of which is identified in the
20 countywide siting element or amendment thereto, which has been
21 approved pursuant to Section 41721.

22 (2) The solid waste facility is a facility which is designed to,
23 and which as a condition of its permit, will recover for reuse or
24 recycling at least 5 percent of the total volume of material received
25 by the facility, and which is identified in the nondisposal facility
26 element or amendment thereto, which has been approved pursuant
27 to Section 41800 or 41801.5.

28 (b) Solid waste facilities other than those specified in paragraphs
29 (1) and (2) of subdivision (a) shall not be required to comply with
30 the requirements of this section.

31 (c) The person or agency proposing to establish a solid waste
32 facility shall prepare and submit a site identification and description
33 of the proposed facility to the task force established pursuant to
34 Section 40950. Within 90 days after the site identification and
35 description is submitted to the task force, the task force shall meet
36 and comment on the proposed solid waste facility in writing. These
37 comments shall include, but are not limited to, the relationship
38 between the proposed solid waste facility and the implementation
39 schedule requirements of Section 41780 and the regional impact
40 of the facility. The task force shall transmit these comments to the

person or public agency proposing establishment of the solid waste facility, to the county, and to all cities within the county. The comments shall become part of the official record of the proposed solid waste facility.

(d) The review and comment by the local task force required by subdivision (c) for amendment to an element may be satisfied by the review required by subdivision (a) of Section 41734 for an amendment to an element.

SEC. 492. Section 50001.5 of the Public Resources Code is amended to read:

50001.5. At the request of the ~~board~~ Department of Resources Recycling and Recovery or the Department of Toxics and Waste Management or any local governmental entity, the Attorney General shall bring an action to enforce this division.

SEC. 493. Section 50002 of the Public Resources Code is amended to read:

50002. (a) ~~The California Integrated Waste Management Board~~ Department of Toxics and Waste Management may, by regulation, specify classifications of solid waste facilities that are exempt from the requirements of Sections 50000, 50000.5, and 50001. The regulation may be adopted only if the ~~board~~ Department of Toxics and Waste Management makes all of the following findings:

- (1) The exemption is not contrary to the public interest.
- (2) The quantity of solid wastes to be disposed of at each site is insignificant.
- (3) The nature of the solid wastes poses no significant threat to the public health, the public safety, or the environment.

(b) The application to land of agricultural products derived from municipal sewage sludge for use as a fertilizer material, based on a finding by the ~~board~~ Department of Toxics and Waste Management that the nature of the solid waste poses no significant threat to the public health, the public safety, or the environment, is exempt from the requirements of Sections 50000 and 50000.5.

SEC. 494. Section 71011 of the Public Resources Code is amended to read:

71011. "Environmental agency" means any of the following:

(a) The Department of ~~Toxic Substances Control~~ Toxics and Waste Management, the Department of Pesticide Regulation, the State Air Resources Board, the State Water Resources Control

1 Board, ~~the California Integrated Waste Management Board~~, and
2 the Office of Environmental Health Hazard Assessment.

3 (b) A California regional water quality control board.

4 (c) A district, as defined in Section 39025 of the Health and
5 Safety Code.

6 (d) An enforcement agency, as defined in Section 40130 of the
7 Public Resources Code.

8 (e) A county agricultural commissioner with respect to his or
9 her administration of Divisions 6 (commencing with Section
10 11401) and 7 (commencing with Section 12501) of the Food and
11 Agricultural Code.

12 (f) The local agency responsible for administering Chapter 6.7
13 (commencing with Section 25280) of the Health and Safety Code
14 concerning underground storage tanks and any underground storage
15 tank ordinance adopted by a city or county.

16 (g) The local agency responsible for the administration of the
17 requirements imposed pursuant to Section 13370.5 of the Water
18 Code.

19 (h) A certified unified program agency as provided in Chapter
20 6.11 (commencing with Section 25404) of Division 20 of the
21 Health and Safety Code.

22 (i) Any other state, regional, or local permit agency for the
23 project that participates at the request of the permit applicant upon
24 the permit agency's agreement to be subject to this division.

25 *SEC. 495. Section 71017 of the Public Resources Code is*
26 *amended to read:*

27 71017. (a) "Council" means the California Environmental
28 Policy Council.

29 (b) The council is hereby created and consists of the following
30 members or their designees:

31 (1) The Secretary for Environmental Protection.

32 (2) The Director of Pesticide Regulation.

33 (3) The Director of ~~Toxic Substances Control~~ *Toxics and Waste*
34 *Management*.

35 (4) The Chairperson of the State Air Resources Board.

36 (5) The Chairperson of the State Water Resources Control
37 Board.

38 (6) The Director of the Office of Environmental Health Hazard
39 Assessment.

1 ~~(7) The Chairperson of the California Integrated Waste~~
2 ~~Management Board.~~

3 *SEC. 496. Section 71071 of the Public Resources Code is*
4 *amended to read:*

5 71071. (a) On and after February 1, 2005, *the Department of*
6 *Resources Recycling and Recovery*, the California Environmental
7 Protection Agency, and its boards, departments, and offices shall
8 provide and produce reports and other documentation pursuant to
9 the guidelines established in Section 71070.

10 (b) On and after June 1, 2005, all state agencies not otherwise
11 subject to subdivision (a) shall provide and produce reports and
12 other documentation pursuant to the guidelines established in
13 Section 71070.

14 *SEC. 497. Section 71300 of the Public Resources Code is*
15 *amended to read:*

16 71300. (a) For purposes of this part “office” means the Office
17 of Education and the Environment of the ~~Integrated Waste~~
18 ~~Management Board~~ *Department of Toxics and Waste Management*,
19 as established pursuant to this section.

20 (b) The Office of Education and the Environment is hereby
21 established in the ~~Integrated Waste Management Board~~ *Department*
22 *of Toxics and Waste Management*. The office shall report to both
23 the Secretary for Environmental Protection and the ~~board~~ *Secretary*
24 *for Education*. The office shall dedicate its effort to implementing
25 the statewide environmental educational program prescribed
26 pursuant to this part and the integrated waste management
27 educational requirements of this division. The office, through
28 staffing and resources, shall give a high priority to implementing
29 the statewide environmental education program.

30 (c) The office, under the direction of the Secretary for
31 Environmental Protection and the ~~board~~ *Secretary for Education*,
32 in cooperation with the State Department of Education, the State
33 Board of Education, and the Secretary for Education, shall develop
34 and implement a unified education strategy on the environment
35 for elementary and secondary schools in the state. The office shall
36 develop a unified education strategy to do all of the following:

37 (1) Coordinate instructional resources and strategies for
38 providing active pupil participation with onsite conservation efforts.

39 (2) Promote service-learning opportunities between schools and
40 local communities.

1 (3) Assess the impact to participating pupils of the unified
2 education strategy on pupil achievement and resource conservation.

3 (4) On or before June 30, 2006, the office shall report to the
4 Legislature and the Governor on its progress in developing,
5 implementing, and assessing the unified education strategy.

6 (d) The State Department of Education, State Board of
7 Education, and Secretary for Education, in cooperation with the
8 ~~board~~ *Department of Toxics and Waste Management*, shall develop
9 and implement to the extent feasible, a teacher training and
10 implementation plan, to guide the implementation of the unified
11 education strategy, for the education of pupils, faculty, and
12 administrators on the importance of integrating environmental
13 concepts and programs in schools throughout the state. The strategy
14 shall project the phased implementation of elementary, middle,
15 and high school programs.

16 (e) In implementing this part, the office may hold public
17 meetings to receive and respond to comments from affected state
18 agencies, stakeholders, and the public regarding the development
19 of resources and materials pursuant to this part.

20 (f) In implementing this part, the office shall coordinate with
21 other agencies and groups with expertise in education and the
22 environment, including, but not limited to, the California
23 Environmental Education Interagency Network.

24 (g) Any instructional materials developed pursuant to this part
25 shall be subject to the requirements of Chapter 1 (commencing
26 with Section 60000) of Part 33 of the Education Code, including,
27 but not limited to, reviews for legal and social compliance before
28 the materials may be used in elementary or secondary public
29 schools.

30 *SEC. 498. Section 71302 of the Public Resources Code is*
31 *amended to read:*

32 71302. (a) Using the education principles for the environment
33 required in Section 71301, the office, under the direction of the
34 Secretary for Environmental Protection ~~and the board~~, shall
35 develop, in cooperation with the California Environmental
36 Protection Agency, the Resources Agency, the State Department
37 of Education and the State Board of Education, a model
38 environmental curriculum that incorporates these education
39 principles for the environment. The model curriculum shall be
40 aligned with applicable State Board of Education adopted academic

1 content standards in Science, Mathematics, English/Language
2 Arts, and History/Social Sciences, to the extent that any of those
3 content areas are addressed in the model curriculum.

4 (b) The model curriculum shall be submitted to the Curriculum
5 Development and Supplemental Materials Commission for review.
6 The commission shall submit its recommendation to the Secretary
7 for Environmental Protection and to the Secretary of the Resources
8 Agency by July 1, 2005.

9 (1) The Secretary for Environmental Protection and the Secretary
10 of the Resources Agency shall review and comment on the model
11 curriculum by January 1, 2006.

12 (2) The model curriculum along with the comments by the
13 Secretary for Environmental Protection and the Secretary of the
14 Resources Agency shall be submitted to the State Board of
15 Education for its approval.

16 *SEC. 499. Section 71303 of the Public Resources Code is*
17 *amended to read:*

18 71303. (a) As determined appropriate by the Superintendent
19 of Public Instruction, the State Department of Education shall
20 incorporate into publications that provide examples of curriculum
21 resources for teacher use, those materials developed by the office
22 that provide information on the education principles for the
23 environment required in Section 71300.

24 (b) If the Superintendent of Public Instruction determines that
25 materials developed by the office that provide information on the
26 education principles for the environment are not appropriate for
27 inclusion in publications that provide examples of curriculum
28 resources for teacher use, the Superintendent of Public Instruction
29 shall collaborate with the office to make the changes necessary to
30 ensure that the materials are included in that information.

31 (c) The model environmental curriculum approved by the State
32 Board of Education, pursuant to Section 71302 shall be made
33 available by the office to elementary and secondary schools to the
34 extent that funds are available for this purpose. The State
35 Department of Education shall make the model curriculum
36 available electronically including posting on its Web site.

37 (d) The State Department of Education, to the extent feasible
38 and to the extent that funds are available for this purpose, shall
39 encourage the development and use of instructional materials and
40 active pupil participation in campus and community environmental

1 education programs. To the extent feasible, the environmental
2 education programs should be considered in the development and
3 promotion of after school programs for elementary and secondary
4 school pupils and state and local professional development
5 activities to provide teachers with content background and
6 resources to assist in teaching about the environment.

7 (e) (1) ~~The board~~ *Department of Toxics and Waste Management*
8 shall assume costs associated with the printing of the approved
9 model curriculum as set forth in subdivision (c). ~~The board~~
10 *Department of Toxics and Waste Management* shall use, for these
11 purposes, funds that are available for its administrative costs.

12 (2) From funds available for its administrative costs, the State
13 Department of Education shall post and maintain the model
14 curriculum on its Internet site and pay any costs associated with
15 any related online questionnaire on its Internet site as set forth in
16 subdivision (c).

17 (3) The State Department of Education shall explore
18 implementation of this section from its baseline resources dedicated
19 to this purpose and if funding is not available from that source,
20 then funding may be provided to the department, pursuant to
21 appropriation by the Legislature, under Section 71305.

22 *SEC. 500. Section 71305 of the Public Resources Code is*
23 *amended to read:*

24 71305. (a) The Environmental Education Account is hereby
25 established within the State Treasury. Moneys in the account may,
26 upon appropriation by the Legislature, be expended by the
27 California Environmental Protection Agency, in consultation with
28 ~~the board~~ *Department of Toxics and Waste Management*, for the
29 purposes of this part. ~~The board~~ *Department of Toxics and Waste*
30 *Management*, shall provide recommendations to the Secretary for
31 Environmental Protection regarding expenditures from the account.
32 The Secretary for Environmental Protection shall administer this
33 part, including, but not limited to, the account.

34 (b) Notwithstanding any other provision of law to the contrary,
35 the agency may accept and receive federal, state, and local funds
36 and contributions of funds from a public or private organization
37 or individual. The account may also receive proceeds from a
38 judgment in state or federal court, when the funds are contributed
39 or the judgment specifies that the proceeds are to be used for the
40 purposes if this part. The account may receive those funds,

contributions, or proceeds from judgments, that are specifically designated for use for environmental education purposes. Private contributors shall not have the authority to further influence or direct the use of their contributions.

(c) Notwithstanding any other provision of law, a state agency that requires the development of, or encourages the promotion of, environmental education for elementary and secondary school pupils, may contribute to the account.

(d) The agency shall immediately deposit any funds contributed pursuant to subdivision (b) into the account.

SEC. 501. Section 7718 of the Public Utilities Code is amended to read:

7718. (a) The Railroad Accident Prevention and Immediate Deployment Force is hereby created in the California Environmental Protection Agency. The force shall be responsible for providing immediate onsite response capability in the event of large-scale releases of toxic materials resulting from surface transportation accidents and for implementing the state hazardous materials incident prevention and immediate deployment plan. This force shall act cooperatively and in concert with existing local emergency response units. The force shall consist of representatives of all of the following:

- (1) Department of Fish and Game.
- (2) California Environmental Protection Agency.
- (3) State Air Resources Board.
- ~~(4) California Integrated Waste Management Board.~~
- ~~(5)~~
- (4) California regional water quality control boards.
- ~~(6)~~
- ~~(5) Department of Toxic Substances Control~~ *Department of Toxics and Waste Management.*
- ~~(7)~~
- (6) Department of Pesticide Regulation.
- ~~(8)~~
- (7) Office of Environmental Health Hazard Assessment.
- ~~(9)~~
- (8) State Department of Health *Care* Services.
- ~~(10)~~
- (9) Department of the California Highway Patrol.
- ~~(11)~~

1 (10) Department of Food and Agriculture.

2 ~~(12)~~

3 (11) Department of Forestry and Fire Protection.

4 ~~(13)~~

5 (12) Department of Parks and Recreation.

6 ~~(14)~~

7 (13) Department of Boating and Waterways.

8 ~~(15)~~

9 (14) California Public Utilities Commission.

10 ~~(16)~~

11 (15) Any other potentially affected state, local, or federal agency.

12 ~~(17) Office of Emergency Services.~~

13 (16) *California Emergency Management Agency (Cal EMA).*

14 (b) The California Environmental Protection Agency shall
15 develop a state railroad accident prevention and immediate
16 deployment plan in cooperation with the State Fire Marshal,
17 affected businesses, and all of the entities listed in paragraphs (1)
18 to (17), inclusive, of subdivision (a).

19 (c) The plan specified in subdivision (b) shall be a
20 comprehensive set of policies and directions that every potentially
21 affected state agency and business shall follow if there is a railroad
22 accident to minimize the potential damage to the public health and
23 safety, property, and environment that might result from accidents
24 involving railroad activities in the state.

25 *SEC. 502. Section 45855 of the Revenue and Taxation Code*
26 *is amended to read:*

27 45855. Any information regarding solid wastes which is
28 available to the board shall be made available to the ~~California~~
29 ~~Integrated Waste Management Board~~ *Department of Toxics and*
30 *Waste Management.*

31 *SEC. 503. Section 45863 of the Revenue and Taxation Code*
32 *is amended to read:*

33 45863. The board shall, in cooperation with the ~~California~~
34 ~~Integrated Waste Management Board~~ *Department of Toxics and*
35 *Waste Management*, the Taxpayers' Rights Advocate, and other
36 interested taxpayer-oriented groups, develop a plan to reduce the
37 time required to resolve petitions for redetermination and claims
38 for refunds. The plan shall include the determination of standard
39 timeframes and special review of cases which take more time than
40 the appropriate standard timeframe.

1 *SEC. 504. Section 45981 of the Revenue and Taxation Code*
2 *is amended to read:*

3 45981. (a) The board shall provide any information obtained
4 under this part to the ~~California Integrated Waste Management~~
5 ~~Board~~ *Department of Toxics and Waste Management*.

6 (b) The ~~California Integrated Waste Management Board~~
7 ~~Department of Toxics and Waste Management~~ and the board may
8 utilize any information obtained pursuant to this part to develop
9 data on the generation or disposal of solid waste within the state.
10 Notwithstanding any other provision of this chapter, the ~~California~~
11 ~~Integrated Waste Management Board~~ *Department of Toxics and*
12 ~~Waste Management~~ may make waste generation and disposal data
13 available to the public.

14 *SEC. 505. Section 45982 of the Revenue and Taxation Code*
15 *is amended to read:*

16 45982. Neither the ~~California Integrated Waste Management~~
17 ~~Board~~ *Department of Toxics and Waste Management*, nor any
18 person having an administrative duty under Part 9 (commencing
19 with Section 15600) of Division 3 of Title 2 of the Government
20 Code shall disclose the business affairs, operations, or any other
21 proprietary information pertaining to a fee payer, except a fee
22 payer which is a public agency, which was submitted to the board
23 in a report or return required by this part, or permit any report or
24 copy thereof or any book containing any abstract or particulars
25 thereof to be seen or examined by any person not expressly
26 authorized by Section 45981 or this section. However, the
27 Governor may, by general or special order, authorize examination
28 of the records maintained by the board under this part by other
29 state officers, by officers of another state, by the federal
30 government if a reciprocal arrangement exists, or by any other
31 person. The information so obtained pursuant to the order of the
32 Governor shall not be made public except to the extent and in the
33 manner that the order may authorize that it be made public.

34 *SEC. 506. Section 31560 of the Vehicle Code is amended to*
35 *read:*

36 31560. (a) A person operating a vehicle, or combination of
37 vehicles, in the transportation of 10 or more used tires or waste
38 tires, or a combination of used tires and waste tires totaling 10 or
39 more, as defined in Section 42950 of the Public Resources Code,
40 shall be registered with the ~~California Integrated Waste~~

1 ~~Management Board~~ *Department of Toxics and Waste Management*,
2 unless specifically exempted, as provided in Chapter 19
3 (commencing with Section 42950) of Part 3 of Division 30 of the
4 Public Resources Code and in regulations adopted by the board to
5 implement that chapter.

6 (b) It is unlawful and constitutes an infraction for a person
7 engaged in the transportation of 10 or more used tires or waste
8 tires, or a combination of used tires and waste tires totaling 10 or
9 more, to violate a provision of this article or Section 42951 of the
10 Public Resources Code.

11 *SEC. 507. Any section of any act of the 2009–10 Regular*
12 *Session enacted by the Legislature during the 2009 calendar year*
13 *that takes effect on or before January 1, 2010, and that amends,*
14 *amends and renumbers, adds, repeals and adds, or repeals a*
15 *section that is amended by this act, shall prevail over this act,*
16 *whether that act is enacted prior to, or subsequent to, the*
17 *enactment of this act.*

18
19
20 **All matter omitted in this version of the bill**
21 **appears in the bill as amended in Assembly,**
22 **April 20, 2009 (JR11)**
23